

MARKET EXPANSION FOR U.S.- PRODUCED WINE

HEARING BEFORE THE SUBCOMMITTEE ON TRADE OF THE COMMITTEE ON WAYS AND MEANS HOUSE OF REPRESENTATIVES NINETY-EIGHTH CONGRESS

SECOND SESSION

JULY 24, 1984

Serial 98-96

Printed for the use of the Committee on Ways and Means



U.S. GOVERNMENT PRINTING OFFICE

WASHINGTON : 1985

39-936 O

H781-18

COMMITTEE ON WAYS AND MEANS

DAN ROSTENKOWSKI, Illinois, *Chairman*

SAM M. GIBBONS, Florida
J.J. PICKLE, Texas
CHARLES B. RANGEL, New York
FORTNEY H. (PETE) STARK, California
JAMES R. JONES, Oklahoma
ANDY JACOBS, Jr., Indiana
HAROLD FORD, Tennessee
ED JENKINS, Georgia
RICHARD A. GEPHARDT, Missouri
THOMAS J. DOWNEY, New York
CECIL (CEC) HEFTTEL, Hawaii
WYCHE FOWLER, Jr., Georgia
FRANK J. GUARINI, New Jersey
JAMES M. SHANNON, Massachusetts
MARTY RUSSO, Illinois
DON J. PEASE, Ohio
KENT HANCE, Texas
ROBERT T. MATSUI, California
BERYL ANTHONY, Jr., Arkansas
RONNIE G. FLIPPO, Alabama
BYRON L. DORGAN, North Dakota
BARBARA B. KENNELLY, Connecticut

BARBER B. CONABLE, Jr., New York
JOHN J. DUNCAN, Tennessee
BILL ARCHER, Texas
GUY VANDER JAGT, Michigan
PHILIP M. CRANE, Illinois
BILL FRENZEL, Minnesota
JAMES G. MARTIN, North Carolina
RICHARD T. SCHULZE, Pennsylvania
BILL GRADISON, Ohio
W. HENSON MOORE, Louisiana
CARROLL A. CAMPBELL, Jr.,
South Carolina
WILLIAM M. THOMAS, California

JOHN J. SALMON, *Chief Counsel*

JOSEPH K. DOWLEY, *Assistant Chief Counsel*

ROBERT J. LEONARD, *Chief Tax Counsel*

A.L. SINGLETON, *Minority Chief of Staff*

SUBCOMMITTEE ON TRADE

SAM M. GIBBONS, Florida, *Chairman*

DAN ROSTENKOWSKI, Illinois
JAMES R. JONES, Oklahoma
ED JENKINS, Georgia
THOMAS J. DOWNEY, New York
DON J. PEASE, Ohio
KENT HANCE, Texas
CECIL (CEC) HEFTTEL, Hawaii
MARTY RUSSO, Illinois

GUY VANDER JAGT, Michigan
BILL ARCHER, Texas
BILL FRENZEL, Minnesota
RICHARD T. SCHULZE, Pennsylvania
PHILIP M. CRANE, Illinois

RUFUS YERXA, *Professional Staff*

MARY JANE WIGNOT, *Professional Staff*

FRANKLIN C. PHIFER, Jr., *Professional Staff*

JANET NUZUM, *Professional Staff*

GEORGE J. WEISE, *Professional Staff*

JOANNA SHELTON, *Professional Staff*

CONTENTS

Press release of Friday, July 13, 1984, announcing the hearing	Page 1
WITNESSES	
U.S. Trade Representative, Hon. William E. Brock	20
Department of Commerce, Alan F. Holmer, Deputy Assistant Secretary for Import Administration	33
American Grape Growers Alliance for Fair Trade, John Weidert and Joseph Vicario	44
Brown, Doreen L., Consumers for World Trade	234
Brown-Forman Corp., James H. Lundquist, Gunter von Conrad, and Matthew J. Clark	156
Clark, Matthew J., Joseph E. Seagram & Sons, Inc.; Schieffelin & Co.; Brown- Forman Corp.; Heublein Inc.; and Hiram Walker & Sons, Inc.	156
Clawson, James B., Wine Institute	41
Coelho, Hon. Tony, a Representative in Congress from the State of California..	3
Consumers for World Trade, Doreen L. Brown	234
Davis, Rex D., National Association of Beverage Importers	98
Distillery, Wine & Allied Workers International Union, Abe Weiss	51
Food and Allied Service Trades Department, AFL-CIO, Jay Harvey and Abe Weiss	51
Harvey, Jay, Food and Allied Service Trades Department, AFL-CIO	51
Heublein Inc., James H. Lundquist, Gunter von Conrad, and Matthew J. Clark	156
Hiram Walker & Sons, Inc., James H. Lundquist, Gunter von Conrad, and Matthew J. Clark	156
Horton, Hon. Frank, a Representative in Congress from the State of New York	7
Joseph E. Seagram & Sons, Inc., James H. Lundquist, Gunter von Conrad, and Matthew J. Clark	156
Lundquist, James H., Joseph E. Seagram & Sons, Inc.; Schieffelin & Co.; Brown-Forman Corp.; Heublein Inc.; and Hiram Walker & Sons, Inc.	156
Matsui, Hon. Robert T., a Representative in Congress from the State of California	8
National Association of Beverage Importers, Rex D. Davis	98
Schieffelin & Co., James H. Lundquist, Gunter von Conrad, and Matthew J. Clark	156
Silverman, Arthur H., Wine Institute	41
Thomas, Hon. William M., a Representative in Congress from the State of California	11
Vicario, Joseph, American Grape Growers Alliance for Fair Trade	44
von Conrad, Gunter, Joseph E. Seagram & Sons, Inc.; Schieffelin & Co.; Brown-Forman Corp.; Heublein Inc.; and Hiram Walker & Sons, Inc.	156
Weidert, John, American Grape Growers Alliance for Fair Trade	44
Weiss, Abe, Food and Allied Service Trades Department, AFL-CIO, and Dis- tillery, Wine & Allied Workers International Union	51
Wine Institute, Arthur H. Silverman and James B. Clawson	41
SUBMISSIONS FOR THE RECORD	
Department of Agriculture, Hon. John R. Block, Secretary, letter	236
Association of American Vintners, Nathan G. Stackhouse, Jr., statement	237
Conte, Hon. Silvio O., a Representative in Congress from the State of Massa- chusetts, statement	10
French Federation of Wine and Spirits Exporters, Max N. Berry and Marsha A. Echols, statement	238
National Council of Farmer Cooperatives, statement	241
U.S. Council for an Open World Economy, David J. Steinberg, statement	243

MARKET EXPANSION FOR U.S.-PRODUCED WINE

TUESDAY, JULY 24, 1984

HOUSE OF REPRESENTATIVES,
COMMITTEE ON WAYS AND MEANS,
SUBCOMMITTEE ON TRADE,
Washington, DC.

The subcommittee met at 9:30 a.m., pursuant to notice, in room B-318, Rayburn House Office Building, Hon. Sam M. Gibbons (chairman of the subcommittee) presiding.

[The press release announcing the hearing follows:]

[Press release No. 44, Friday, July 13, 1984]

THE HONORABLE SAM M. GIBBONS (D., Fla.), CHAIRMAN, SUBCOMMITTEE ON TRADE, COMMITTEE ON WAYS AND MEANS, U.S. HOUSE OF REPRESENTATIVES, ANNOUNCES CONTINUATION OF HEARINGS ON LEGISLATION TO EXPAND MARKETS FOR UNITED STATES PRODUCED WINE

The Honorable Sam M. Gibbons (D., Fla.), Chairman of the Subcommittee on Trade of the Committee on Ways and Means, U.S. House of Representatives, today announced the continuation of hearings previously announced in Subcommittee press release #19 and begun November 15, 1983, on legislation to reduce trade barriers and increase market opportunities for United States produced wine. The hearings will be held on Tuesday, July 24, 1984, in room B-318 Rayburn House Office Building beginning at 9:30 a.m.

The Subcommittee received testimony November 15, 1983, on H.R. 3795,¹ to harmonize, reduce, and eliminate barriers to trade in wine on a basis which assures substantially equivalent competitive opportunities for all wine moving in international trade. Since then, a substitute proposal to expand and develop markets for United States produced wine has been developed and put forth by various interested parties. This substitute consists of the following main elements:

(1) Presidential direction to the U.S. Trade Representative to enter into consultations with major trading countries to seek a reduction of foreign tariffs on U.S. wine;

(2) Initiation by the President of an investigation under section 301 of the Trade Act of 1974 of nontariff barriers of major foreign trading countries on wine and other grape products to determine whether such barriers are unjustifiable, unreasonable, or discriminatory and burden or restrict U.S. commerce;

(3) Action by the President under section 301(b) if negotiations to reduce foreign tariff and nontariff barriers on U.S. wine with each major trading country are unsuccessful by January 1, 1986;

(4) Status reports from the U.S. Trade Representative to the House Committee on Ways and Means and the Senate Committee on Finance;

(5) Authority for the President to use authority under section 135 of the Omnibus Budget Reconciliation Act of 1982 to make available at least \$2 million but not more than \$10 million to initiate wine export promotion programs with nongovernmental trade associations representing U.S. wineries; and

(6) An amendment of the definition of domestic "industry" under the countervailing duty and antidumping laws in cases involving a processed agricultural product to include not only producers of that product but also producers of the principal raw agricultural input if they allege material injury from imports of the processed product.

¹ See "Miscellaneous Tariff and Trade Bills," Serial 98-76.

DETAILS FOR SUBMISSION OF REQUESTS TO BE HEARD

Witnesses will be heard who previously testified or requested to appear. Additional requests to be heard must be made by telephone to Harriett Lawler [telephone (202) 225-3627] by noon, Friday, July 20, 1984. The request should be followed by a formal written request addressed to John J. Salmon, Chief Counsel, Committee on Ways and Means, U.S. House of Representatives, Room 1102 Longworth House Office Building, Washington, D.C. 20515.

In view of the limited time available to hear witnesses, the Subcommittee may not be able to accommodate all requests to be heard. Those persons and organizations not scheduled for an oral appearance will be encouraged to submit written statements for the record of the hearing. All persons requesting to be heard, whether they are scheduled for oral testimony or not, will be notified as soon as possible after the filing deadline.

It is urged that persons and organizations having a common position make every effort to designate one spokesman to represent them in order for the Subcommittee to hear as many points of view as possible. Witnesses are requested to briefly summarize their written statements with the understanding that a more detailed statement may be included in the printed record of the hearing. This process will afford more time for Members to question witnesses. In addition, witnesses may be grouped as panelists with strict time limitations for each panelist.

In order to assure the cost productive use of the limited amount of time available for questions, witnesses appearing before the Subcommittee are required to submit 100 copies of their prepared statements to the full Committee office, Room 1102 Longworth House Office Building, at least 24 hours in advance of their scheduled appearances.

Requests to be heard must contain the following information:

- (1) The name, full address, and capacity in which the witness will appear, as well as a telephone number where he or his designated representative may be reached;
- (2) A list of any clients or persons, or any organization for whom the witness appears; and
- (3) A topical outline or summary of the comments and recommendations in the full statement.

The above information should also be incorporated in the prepared statements to be presented in person as well as those filed for the printed record of the hearing.

WRITTEN STATEMENTS IN LIEU OF PERSONAL APPEARANCE

Persons submitting a written statement in lieu of a personal appearance should submit at least six copies of their statement, by close of business, Friday, July 27, 1984, to John J. Salmon, Chief Counsel, Committee on Ways and Means, U.S. House of Representatives, Room 1102 Longworth House Office Building, Washington, D.C. 20515. If those filing written statements for the the record of the printed hearing wish to have their statements distributed as to the press and the interested public, they may provide 75 additional copies for this purpose to the Committee office before the hearing begins.

Chairman GIBBONS. Good morning ladies and gentlemen.

As everyone knows, this is a meeting of the Subcommittee on Trade of the Committee on Ways and Means. This morning we have a hearing on the wine equity legislation. This is really a continuation of hearings that we began last November. We are seeking ways to reduce foreign barriers to trade and to expand the export market opportunities for U.S. wine producers. We are focusing on the bill H.R. 3795. introduced by our colleague, Mr. Coelho.

Since then, a new proposal has developed seeking to remove criticisms of the original bill. Congressman Coelho and his panel will lead off this morning and Ambassador Brock will present the overall administration position.

Gentlemen, why don't you go right ahead and proceed. I want to welcome all of you here this morning. It's a pleasure to see you.

**STATEMENT OF HON. TONY COELHO, A REPRESENTATIVE IN
CONGRESS FROM THE STATE OF CALIFORNIA**

Mr. COELHO. Thank you, Mr. Chairman. Thank you for calling these hearings, a chance to present to you the different groups. I would like my statement just to be made a part of the record and I know that some of my colleagues have some hearings that they must attend to. I would like to let them go first. I would just like to say, Mr. Chairman, that I know that some witnesses will point out that the wine industry is not together. I would like to point out to you and other members of this subcommittee if they look at the record that the only part of the industry that is not together is that industry that imports and they may own some domestic wineries but their main business is importing.

The domestic wine industry is totally united. The soybean people were opposed to the original bill. We have met with them and have reached a compromise so that we are all together. This bill basically, the compromise basically does not force the administration to do much except to follow through on things that it finds as a result of its investigations. We think it's a fair approach. It does have the total support of the domestic wine industry and full support of the Soybean Association, which originally was opposed.

So we are very pleased with the compromise and would hope that the subcommittee would proceed. I would like to introduce my colleague from New York, Mr. Horton, who does have another committee meeting and asked that he may be first.

[The prepared statement follows:]

**STATEMENT OF HON. TONY COELHO, A REPRESENTATIVE IN CONGRESS FROM THE STATE
OF CALIFORNIA**

Mr. Chairman, I would like to sincerely thank you for holding this additional hearing on H.R. 3795. I certainly appreciate the attention that you have given this bill and the recently reached compromise which resulted in creating the Wine Equity and Export Expansion Act of 1984.

I have attached a copy of this compromise to my testimony which I would like to submit to the Subcommittee to be included in the record. As I am sure you know, Mr. Chairman, numerous agricultural interests were concerned that the original version of H.R. 3795 may result in affecting their trading agreements. These interested parties have reached a compromise and ironed out their differences. In fact, the American Soybean Association, the Wine Institute, and the American Grape Growers Alliance for Fair Trade are now strongly in support of this measure. I would at this time like to submit a copy of a letter which I received from the American Soybean Association which reads, "The American Soybean Association is pleased to indicate its support for the proposed substitute for the original Wine Equity Act." I believe that this recently attained compromise is GATT compatible and that it works is within our trade agreements made with other trading partners. Furthermore this legislation would ensure that growers would be allowed to be considered as part of the domestic industry on a consistent basis by the International Trade Commission when considering a case.

Mr. Chairman, as I said in my previous testimony before this Subcommittee the U.S. wine producer and grape grower are not requesting any subsidies or government assisted programs. They are only requesting equity, fairness, and harmony in the wine and grape market. The domestic wine and grape producer has proved that he can produce some of the finest wines and grape products in the world. This quality, combined with an increased consumer demand should reflect an industry that is growing and increasing in sales. Unfortunately, the wine and grape producer in the United States has only seen formidable obstacles drawn against him while he is willing to share his own market with other producers. I strongly urge favorable consideration by this committee on this important legislation to allow the American wine and grape producer the opportunity to compete fairly in the market abroad.

ASA WASHINGTON OFFICE,
Washington, DC, July 20, 1984.

Hon. TONY COELHO,
House of Representatives,
Washington, DC.

DEAR REPRESENTATIVE COELHO: The Committee on Ways and Means is scheduled to hold a hearing on July 24 regarding H.R. 3795, the Wine Equity Act. The American Soybean Association appreciates this opportunity to comment on the legislation.

The American Soybean Association is pleased to indicate its support for the proposed substitute for the original Wine Equity Act which has been developed through lengthy discussions among the Wine Institute, the American Grape Growers Alliance for Fair Trade, and ASA. We believe the compromise entitled the Wine Equity and Export Expansion Act of 1984 constitutes sound trade legislation which will benefit the wine and grape industries while protecting the export markets of U.S. soybean farmers. The substitute language would give the Administration the tools to address the legitimate concerns of the wine and grape industries as well as assisting the wine industry to expand its export markets through a joint market development effort with the Department of Agriculture.

ASA commends the principal sponsors of the Wine Equity Act for their willingness to recognize the concerns of soybean farmers in the compromise legislation. We are pleased to endorse passage of the Wine Equity and Export Expansion Act of 1984.

Sincerely,

JOHN BAIZE, Washington Director.

Enclosure.

[H.R. 3795, 98th Cong., 2d sess.]

A BILL To expand markets for United States produced wine through the harmonization, reduction, and elimination of barriers to trade in wine on a basis which assures substantially equivalent competitive opportunities for all wine moving in international trade, the promotion of wine in foreign markets, and for other purposes

Be it enacted by the Senate and the House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Wine Equity and Export Expansion Act of 1984".

SEC. 2. CONGRESSIONAL FINDINGS AND PURPOSES.

(a) Congress finds that—

(1) there is a substantial imbalance in international wine trade resulting from the easy accessibility enjoyed by foreign wines to the American market which is in direct contrast to the export position of the American wine industry in virtually every existing or potential foreign market;

(2) the lack of access to foreign markets and the continued low prices for wine and other grape products severely erode the economic position of winemakers and wine grape growers and all sectors that depend upon wine production;

(3) the competitive position of United States produced wine in international trade has been weakened by foreign export subsidies, unfair trade practices, high U.S. interest rates, and unfavorable foreign exchange rates;

(4) American wine producers seeking to market their products abroad are faced with a maze of restrictive and prohibitive tariff and nontariff barriers;

(5) the United States government has failed to take positive action in previous multilateral trade negotiations to gain greater access to foreign markets for United States produced wine but at the same time has granted greater access to the United States market by lowering tariffs. Foreign wines move freely in the American market subject only to the same laws and regulations which apply to American wines and to payment of the lowest import duties assessed anywhere in the world by a significant wine-producing country on foreign wine;

(6) wine consumption per capita is very low in many major non-wine producing markets and the demand potential for American wine is significant;

(7) the United States winemaking industry has the capacity and the ability to export substantial volumes of wine and an increase in wine exports from the United States would create new jobs, improve this Nation's balance of trade, and otherwise strengthen the national economy; and

(b) The purposes of this Act are—

(1) to provide wine consumers with the greatest possible choice of wines from wine-producing countries;

(2) to expand the export promotion programs of the United States government to include wine so as to increase the foreign demand for American wines;

(3) to achieve access to foreign markets for United States wine and other grape products substantially equivalent to the market access afforded to such products by the United States;

(4) to eliminate tariff and nontariff barriers existing in international trade involving wine and other grape products; and,

(5) to provide the President with the authority and remedies to effect the reduction in foreign trade barriers relating to wine and other grape products.

SEC. 3. DEFINITIONS.

For purposes of this Act—

(1) The term "designated major trading country" means any country, or group of countries represented as an economic union, in which there is a market potential for the export of United States wines and which the United States Trade Representative, after consultation with the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives and representatives of the wine and other grape products industries, designate as such a country. The criteria for designating a country or group of countries as a designated major trading country under this Act include, but are not limited to, the market potential for the export of United States wines, foreign wine production, and wine exports to the United States.

(2) The term "nontariff barriers" may include but is not limited to distillation aids; assumption of operating expenses; including storage costs; production and marketing aids; preferential financing; export refunds; certification requirements; license and quota systems; unreasonable customs delays or procedures; reference price systems; and process, bottling, and labeling requirements.

(3) The term "wine" means any substance that—

(A) is made from grapes or grape products or other fruit or fruit products;

(B) contains not less than 0.5 per centum alcohol by volume and not more than 24 per centum alcohol by volume, including all dilutions and mixtures thereof by whatever process produced; and

(C) is for nonindustrial use.

(4) The term "grape product" means grapes and any product made from grapes, including, but not limited to, raisins and grape juice, whether or not concentrated.

SEC. 4. REDUCTION OF TARIFF AND NONTARIFF BARRIERS.

(a) The President shall direct the United States Trade Representative to enter into consultations with each designated major trading country to seek a reduction of foreign tariffs on United States wine.

(b) The President shall also initiate an investigation pursuant to the provisions of Section 301 of the Trade Act of 1974, as amended, (19 U.S.C. 2411) with respect to the nontariff barriers of designated major trading countries on wine and other grape products. The President shall begin an investigation within two months after a country has been designated a major trading country. Each such nontariff barrier shall be investigated to determine if it constitutes an act, policy, or practice of such major trading country that is unjustifiable, unreasonable, or discriminatory and burdens or restricts United States commerce as provided for in Section 301(a)(2)(B) of the Trade Act of 1974 as amended. If such nontariff barrier is found to constitute an act, policy, or practice of such major trading country that is unjustifiable, unreasonable, or discriminatory and burdens or restricts United States commerce as provided for in Section 301(a)(2)(B) of the Trade Act of 1974, as amended, then the United States Trade Representative shall proceed under Section 301.

(c) In the event that the President is unable to negotiate reductions in the foreign tariff and nontariff barriers on United States wine by January 1, 1986, with each designated major trading country, then—

(1) the President shall exercise the authority available to him under Section 301(b) of the Trade Act of 1974, as amended. The actions taken may include but are not limited to a review of the practice of certifying for import, wines produced by enological practices inconsistent with United States requirements but are legal in the country of origin; provided that if the country of origin certifies for import enological practices of United States wines legal in the United States, then the President may not terminate the practice of the Treasury Department of making such certifications.

(2) in exercising the authority granted to the President to obtain increased access to the markets of a trading partner under any provision of United States law, or under any agreement to which the United States is a party, or in exer-

cising the authority to suspend, modify or withdraw concessions pursuant to Section 125, Title 1 of P.L. 93-618, or any other provision of United States law, and in keeping with the intent of Section 854 of the Trade Act of 1979, the President shall give due and full consideration to gaining access for wine to those markets or failing to gain such access, to raising the tariff level on wine imported into the United States.

SEC. 5. REPORTING.

The United States Trade Representative shall report to the Committee on Finance of the Senate and Committee on Ways and Means of the House of Representatives one year after the commencement of each consultation and each investigation initiated under Section 4. These reports shall include a description of the tariff and nontariff barriers and other distortions to trade that have been identified, those that have been reduced or eliminated, those that remain to be reduced or eliminated and the proposed actions that could be taken to reduce or eliminate such barriers.

SEC. 6. CONSULTATIONS.

For purposes of identifying tariff and nontariff barriers to, and potential markets for, United States wine and other grape products, the United States Trade Representative shall consult with the Committee on Finance of the Senate, the Committee on Ways and Means of the House of Representatives, and with representatives of the wine and other grape products industries.

SEC. 7. WINE EXPORT PROMOTION.

In order to develop, maintain, and expand foreign markets for U.S. wine, the President is authorized and encouraged to utilize the authority granted under Section 135 of the Omnibus Budget Reconciliation Act of 1982 to make available at least \$2,000,000 but not more than \$10,000,000 to initiate an export promotion program for U.S. wine with non-governmental trade associations representative of U.S. wineries. When such programs are initiated, the President shall direct that the budget of the cooperator program as provided for under the Agricultural Trade Development and Assistance Act of 1954 (P.L. 480), or any other program available to the President for this purpose, be sufficiently increased to maintain support of such wine export promotion programs in subsequent fiscal years.

SEC. 8. AMENDMENT OF THE TARIFF ACT OF 1930.

(a) Section 771 of Title VII of the Tariff Act of 1930 (19 U.S.C. 1671 et seq.) is amended—

(1) by adding at the end of Section 771(4)(A) the following: "In the case of a processed agricultural product, the industry shall consist of the producers of that product and the producers of the principal raw agricultural product, determined on either a volume or value basis, which is included in the processed agricultural product subject to investigation, provided that such producers of the principal raw agricultural product allege material injury, or threat of material injury, as a result of imports of the processed agricultural product subject to investigation."

(2) by adding at the end of Section 771 the following Subsection:

"(18) PROCESSED AGRICULTURAL PRODUCTS.—The term 'processed agricultural product' means any product of farm, forest or fishery which has undergone processing beyond that customarily required to prepare it for marketing in its natural form."

(b) No provision in Title VII of the Tariff Act of 1930 shall be interpreted to prevent the refiling of a petition pursuant to Section 702 or 732 of Title VII that was filed before the effective date of this Part.

Chairman GIBBONS. We are glad to have Mr. Horton here along with Mr. Matsui and Mr. Thomas this morning. We will hear from you next, Mr. Horton.

Mr. HORTON. Thank you very much, Mr. Chairman.

I am happy to join this panel of members who are principal sponsors of this legislation and I have a very short statement.

Chairman GIBBONS. We will put your entire statement in the record.

Mr. HORTON. We were before you last fall, as you recall.

Chairman GIBBONS. I recall, yes.

**STATEMENT OF HON. FRANK HORTON, A REPRESENTATIVE IN
CONGRESS FROM THE STATE OF NEW YORK**

Mr. HORTON. As Congressman Coelho has already indicated, we had questions brought up by agricultural groups, most notably the soybean producers. After many meetings and much discussion their initial opposition has been resolved and the bill is before us as a compromise bill which I fully support as do my other colleagues.

It is a good bill and it does enjoy the support of the soybean producers. I want to commend them for what they have done. Last fall, Mr. Chairman, I spoke with you about the wine industry in New York and about the quality of the product that we produce. Our wines continue to win international acclaim but since my last appearance before the subcommittee, much has happened to the industry in New York State.

Our industry is growing weaker. As a matter of fact, just the early part of this year some of the wineries indicated they were not going to be buying grapes and many of the small wineries are going out of business. Some of them, having had notable achievements in international tasting competitions, have closed their doors. The State of New York is very much concerned about it. They passed legislation that will permit wine sellers in grocery stores and permit sale of wine at meetings such as State fairs.

But the point I am making is that the wine industry in New York is sick. It's having very, very difficult times.

I don't pretend to tell you that the Wine Equity Act will be the solution to all the problems in New York State but it is certainly a part of the solution. It does hold hope for the future in an export market which we believe we can effectively compete. Today we are barred from that competition and we look to this subcommittee and the Committee on Ways and Means to correct this situation.

As I stated, Mr. Chairman, this bill is a compromise. It enjoys broad support. It is GATT compatible, contains no specific tariff provisions—the part of the bill considered hostile by the soybean producers has been as I indicated before, resolved.

In short, it is a good and responsible piece of legislation. I know my colleagues will speak about the bill itself but I want to urge the subcommittee to act as expeditiously as possible. I know we only have about maybe at the most 7 or 8 weeks left in this session but I think it would be very important for us to report it out of the Ways and Means Committee, get it to the floor and let us act and express our will before this House adjourns.

[The prepared statement follows:]

**STATEMENT OF HON. FRANK HORTON, A REPRESENTATIVE IN CONGRESS FROM THE
STATE OF NEW YORK**

Mr. Chairman, I am proud to be here today and speak to you and the Members of this Subcommittee about the importance of the Wine Equity Act. I'll keep my statement short and to the point.

We were before you last Fall with a bill that I believe would have adequately and equitably addressed the justified concerns of the American wine industry. These concerns centered around trade inequities that allow an open door to wines imported into the United States, but restrict—through tariff and non-tariff trade barriers—the importations of American wines into foreign markets.

Mr. Chairman and Members of this Subcommittee, some concerns were expressed by you last Fall and by some agricultural groups—most notably the soybean producers—about the Wine Equity act as it was drafted. Over the past several months, we

have met for long hours to address and resolve these concerns where possible. The bill before you is the result of countless meetings, phone calls and negotiations between a number of parties.

The bill before you is a good bill and a fair bill. It enjoys broad support, including the support of the soybean producers. I commend them for their responsible position and their commitment over the past several months to seek a compromise that would not threaten their interests, but that would address some very legitimate concerns of the American wine industry.

Mr. Chairman, last Fall, I spoke with you about the wine industry in New York, and about the quality of the product we produce. Our wines continue to win international acclaim. But since my last appearance before your Subcommittee much has happened in New York. Our industry is growing weaker. Several wineries, including some with the most notable achievements in international tasting competition, have closed their doors.

I don't pretend to tell you that the Wine Equity Act is the complete solution to our problem in New York—for it is not. But it is a part of the solution. It does hold hope for the future in an export market in which we believe we can effectively compete. Today, we are barred from competition. We look to you to help correct that situation in a manner that is equitable to all parties.

Mr. Chairman, as I stated, this bill is a compromise. It enjoys broad support. It is GATT compatible. It contains no specific tariff provisions—the part of the bill considered so hostile by soybean producers, Members of your Subcommittee and others. It is, in short, a good and responsible piece of legislation. My colleagues will speak to the specific provisions of the legislation, but it was my intention to underscore both the importance of this Wine Equity Act to wine producers in every state, as well as to impress upon you and this Subcommittee the commendable effort by so many to achieve a satisfactory solution.

I thank you for this opportunity and look forward to your positive consideration of this bill.

Chairman GIBBONS. Mr. Matsui, you want to be heard next?

**STATEMENT OF HON. ROBERT T. MATSUI, A REPRESENTATIVE IN
CONGRESS FROM THE STATE OF CALIFORNIA**

Mr. MATSUI. Thank you very much, Mr. Chairman. I will be brief.

As Mr. Horton indicated, we did testify before your subcommittee last fall. I think some of the comments made by myself and others at that time are still applicable here. I would only point out additional information has come up, our trade deficit for last year is now estimated at \$69 billion for the fiscal year 1984 and now we estimate it to be in excess of \$100 billion, in 1985 the estimates are going up to \$120 or \$130 billion.

The wine trade component of that 1983 deficit was \$862 million, and the deficit has grown just in the area of wine alone, 35 percent since the year 1979.

As Mr. Horton has indicated, in California many of our wineries are having grave financial problems. The problems are getting worse as the months go on. Many of them have indicated to me that the sales of wine throughout the United States has stabilized to the point where there is not showing the trendline up as it has in the past and it is mainly because of the penetration of foreign wine. It is obvious just by going into a liquor store or grocery store you see many more foreign wines on the market now at the lower cost than U.S. wines. This is greatly harming the ability of our domestic industry to compete effectively.

As Mr. Horton has indicated, many significant changes were made from the original bill. The reciprocity element is eliminated, and now the President will have discretion under section 301 after negotiations with the foreign companies involved. This being the

case, we think that this legislation is very moderate. It is really only a first step in terms of reducing the trade deficit but one we think that is necessary.

I know the chairman has met with a group of wine leaders in California last fall—I guess it was in the month of February this year.

Chairman GIBBONS. Yes.

Mr. MATSUI. And he indicated that perhaps this industry should be one in which experimentation in the area of trade should be utilized. We think that this kind of legislation would be that kind of experimentation. It's very moderate. It is one in which we think that it is compatible with GATT and we are certainly hopeful that in the next 30 or 40 days that we have left in this session that we can move the bill from the House and have the Senate move it and also have the President examine it and sign the legislation.

Thank you, Mr. Chairman.

[The prepared statement follows:]

STATEMENT OF HON. ROBERT T. MATSUI, A REPRESENTATIVE IN CONGRESS FROM THE
STATE OF CALIFORNIA

Mr. Chairman, the bill before the Subcommittee on Trade, H.R. 3795, the Wine Equity and Export Expansion Act of 1984, attempts to harmonize, reduce and eliminate tariff and non-tariff trade barriers which exist in the international wine trade. The bill does not seek to provide the means to control imports, impose additional duties that will increase the cost of wine to consumers, nor seek special treatment in the American market.

Despite the fact that American wine has achieved worldwide recognition, the American wine producer seeking to market the product abroad is continually plagued with a maze of restrictive and prohibitive trade barriers. In 1983 alone, the United States trade deficit was more than \$60 billion of which the wine trade element was \$862 million. In addition, the wine trade deficit has grown 35 percent since 1979.

Historically, there has been an imbalance in the international wine trade. This results from the easy accessibility enjoyed by foreign wines in the U.S., which is in direct contrast to the export position of the United States wine industry.

Unlike the wine industry in many foreign nations, the U.S. wine industry receives no government aid or subsidy and the U.S. imposes no non-tariff trade barriers on foreign wines. Foreign wines can move freely within the American market, subject only to the same laws applicable to the American produced wines and to payment of the lowest duties assessed anywhere by a significant wine producing country. This legislation will help to encourage equity within the international wine trade.

Extensive negotiations were undertaken to modify the bill to assure its GATT compatibility, thereby removing any legal basis for retaliation and still provide the president additional tools in dealing with trade barriers.

The reciprocal aspects of the original legislation have been dropped entirely. The amendments now direct the president to seek reductions in tariffs on U.S. wines through consultations with our trading partners.

The amendments further direct the President to use existing U.S. law, Section 301 of the 1974 Trade Act, to investigate non-tariff barriers to wine in those countries designated through the process provided for in the bill. If barriers are found that burden U.S. commerce and are unjustifiable, unreasonable or discriminatory, the President is expected to pursue negotiations under GATT procedures to remove those barriers. If a country refuses and the negotiations are unsuccessful, the President is directed to use his discretionary authority under section 301 and other existing GATT compatible U.S. laws, to compensate the wine industry.

Thank you.

Chairman GIBBONS. Thank you.

Mr. Thomas.

Mr. THOMAS. Thank you, Mr. Chairman.

Congressman Conte had planned to testify with us this morning, but at the last minute was called to a meeting at the White House. I would request that his statement be made a part of the record of this hearing.

Chairman GIBBONS. Yes, it will be accepted for the record.
[The statement of Mr. Conte follows:]

STATEMENT OF HON. SILVIO O. CONTE, A REPRESENTATIVE IN CONGRESS FROM THE
STATE OF MASSACHUSETTS

Mr. Chairman, thank you very much for this opportunity to testify in support of H.R. 3795, the Wine Equity Act. As one of the principal co-sponsors of this legislation, I appreciate the continuing attention that you and the other members of this Committee are devoting to the difficulties of the American wine industry in developing potential export markets.

When I had the privilege of testifying before this Committee last November, I indicated that my interest in this issue was not motivated by local or parochial concerns. Although Massachusetts does boast at least three excellent wineries, my district in western Massachusetts is not a major commercial grape growing or wine producing area.

Rather, like many of the more than 340 co-sponsors of H.R. 3795, I am outraged by the discriminatory treatment that American wines receive at the hands of foreign countries. American wines are fully competitive with their international rivals in terms of price and quality—as long as the competition is fair. But today the game is rigged. The American wine grower seeking to market his product overseas is continually faced with a maze of restrictive and prohibitive trade barriers, including both tariff and non-tariff restrictions.

As originally conceived, the Wine Equity Act would have required foreign countries to harmonize their trade barriers with the very minimal restrictions that the United States places on the importation of wine from those countries.

To the extent that such countries did not bring their trade restrictions into line with those imposed by the United States, the President would have been authorized to impose tariff and non-tariff barriers consistent with those imposed on American wines by foreign countries. This equitable approach was designed not to protect the domestic wine industry, but simply to provide an incentive for foreign countries to make their markets accessible to American wines in the same manner that the U.S. market is open to foreign wines.

In my view, the outcry from our European trading partners over this approach was a good indication that we had hit a nerve. The fundamental fairness of this legislation, and the depth of support for this approach on Capitol Hill, has caused many players in the international community to re-evaluate their positions on the question of export equity for the wine industry.

In addition to the Europeans, who have a vested interest in protecting their markets from American wine competition, the major opposition to this measure has come from the Administration and various agricultural interests, particularly the soybean growers. The concerns raised by these interests centered on the possibility that the Wine Equity Act might be inconsistent with our obligations under the General Agreement on Tariffs and Trade (GATT), and might therefore provide an excuse for foreign retaliation against American agricultural exports. I believe that we have met those objections.

After lengthy discussions with the Administration and with representatives of the various agricultural interests, we have come up with a substitute measure that is GATT-compatible, and that does not provide any basis for retaliation against American products, agricultural or otherwise.

Rather than requiring the imposition of reciprocal barriers as an incentive for other countries to open their markets, the proposed legislation would direct the President to seek reductions in tariffs on U.S. wines through consultations with our trading partners. The legislation also directs the President to use existing trade laws, including section 301 of the 1974 Trade Act, to investigate non-tariff barriers to U.S. wine exports. The measure would provide for action by the President under section 301 if negotiations to reduce foreign tariff and non-tariff barriers on U.S. wine have not proven successful by January 1, 1986. Finally, this legislation would authorize the expenditure of funds to initiate wine export promotion programs with non-governmental trade associations representing U.S. wineries.

This proposal should be acceptable to all of the parties interested in this issue. Although it does not go as far as the original Wine Equity Act, it does provide for

significant bargaining authority on the question of opening foreign markets to U.S. wines.

I thank the members of the Committee for their consideration of this important issue, and look forward to seeing wine equity legislation on the floor in the very near future.

**STATEMENT OF HON. WILLIAM M. THOMAS, A REPRESENTATIVE
IN CONGRESS FROM THE STATE OF CALIFORNIA**

Mr. THOMAS. Thank you.

Obviously, since the time we were before you last fall, Mr. Chairman, there have been a number of meetings and negotiations taking place. We have what I believe is truly a compromise bill. Obviously the wine producers are in difficulty as indicated by my colleagues. I would just like to emphasize one portion that I don't think has been stressed so far, and that is the wine grape producers are also involved.

Obviously you don't make wine without grapes.

The problem is that when you are not selling wine you still have grapes and grapes can be used for raisins or for the fresh market. You have various opportunities. I don't want to go into the recent pressures we have had on raisin exports but obviously it all reflects in terms of a problem for the producer of the raw product, the grape.

The compromise expands the available countervailing duty remedies for raw agricultural products. They have to meet that material injury test which is a difficult one to meet, but it provides some opportunity for relief for the raw product producer as well. I want to stress this is an industrywide compromise, and, as my colleague from California indicated, the only ones not in agreement are those who would be directly affected by the bill as importers.

I would ask unanimous consent that my entire testimony be submitted for the record.

Chairman GIBBONS. Certainly it will be placed in the record.

[The prepared statement follows:]

**STATEMENT OF HON. WILLIAM M. THOMAS, A REPRESENTATIVE IN CONGRESS FROM THE
STATE OF CALIFORNIA**

I appreciate this opportunity to appear again before the Subcommittee on Trade to discuss the need to open new export markets for American wines. The need to encourage U.S. wine exports, as well as to expand trade remedies available to U.S. producers of raw agricultural products used to create processed goods, is as acute today as it was when the Subcommittee began its investigation of these matters last September. Now that the U.S. wine industry and other segments of American agriculture have developed the compromise legislation that has been presented to you, I hope we will be able to move legislation forward in the near future.

As I testified last fall, U.S. wine makers face a myriad of tariff and nontariff barriers as they attempt to export their products. While Japan recently announced a tariff cut on U.S. wines, we need further tariff and nontariff concessions from all wine consuming countries if U.S. wine producers are to expand their markets.

American winegrape producers also require assistance. Winegrapes can be used for a variety of purposes, including wines, raisins and fresh market sales. Recent pressures on U.S. raisin exports and barriers to greater wine exports are making it difficult for grape producers to achieve reasonable returns in their last market for grapes, the fresh market. Make no mistake: grape producers are significantly harmed when wine and raisin sales are affected by unreasonable foreign trade practices.

We need to provide grapegrowers and vintners with export opportunities and effective trade remedies today and not sometimes in the future. Foreign trade practices have already put a lot of financial pressure on growers and winemakers and,

without relief, many in this relatively new, highly competitive export industry are likely to drop out of the business. We cannot ignore the problem anymore because that would signal the world that our government will not assist new industries having high export potential.

The compromise language before you recognizes the need for export expansion and broader access to trade remedies while satisfying many of the concerns voiced by other export businesses. It provides a modified section 301 trade investigation and consultations designed to identify and eliminate unjustifiable, unreasonable or discriminatory trade practices. The bill also provides for the reduction of foreign tariffs on U.S. wines, and it authorizes up to \$10 million in export promotion funding to help our wind industry penetrate foreign markets.

The compromise expands available countervailing duty remedies by allowing U.S. producers of raw agricultural products to obtain relief when they can meet the tough "material injury" test required by the General Agreement on Tariffs and Trade. This is an important step because raw product producers often sell on low profit margins at best and frequently are among the first to be significantly injured by unfair foreign export practices.

I hope the Subcommittee will give this legislation its full consideration as soon as possible. The language is, as I have said, a compromise produced by various agricultural interests in an effort to give new trade opportunities and remedies to a relatively new export industry without damaging the export position of other farm groups. The compromise has broad support in the wine industry and it alleviates some concerns expressed about the original bill. While the original bill has provided leverage for the Administration to use in obtaining important concessions from other countries, new remedies are still needed if we are to aid an industry already under significant pressure at home and abroad.

Chairman GIBBONS. Let me say I appreciate the vigor and spirit with which you who represent the wine industry and grape growers have moved on this. I will commit to you that we will have a markup and see what we can do on this and try to do it as rapidly as possible.

I don't know how my colleagues would vote on the issues but we will just have to see.

I applaud your spirit of working together with the other agricultural interests in the United States to see what can be worked out so that we do not adversely affect their interests.

Mr. HORTON. Could I add one more note, Mr. Chairman?

Chairman GIBBONS. Go right ahead.

Mr. HORTON. You might think that because we represent the States of New York and California that that is mostly where the wine is grown.

Chairman GIBBONS. I know they have begun to grow it in Florida now.

Mr. HORTON. But it is not just these 2 States, it is probably something like 40 or 42 States that have appreciable wine industries, wineries. I think it would be appropriate if you permit us perhaps we could list, furnish the committee a list of the States.

Chairman GIBBONS. We would be happy to have those.

[The information follows:]

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, DC, July 31, 1984.

Hon. SAM GIBBONS,
Chairman, House Subcommittee on Trade,
Longworth House Office Building, Washington, DC.

DEAR SAM: During the recent hearings held by your Subcommittee regarding H.R. 3795, the Wine Equity Act, there was a discussion regarding the number of states which produced grapes and had wineries. In that conversation, it was agreed that the Subcommittee would be provided with a list of those states.

I have enclosed a copy of the listing of the states in the U.S. which currently have wineries. I would appreciate your including this in the hearing record on Tuesday, July 24, 1984.

Again, Sam I would like to thank you for your willingness to hold hearings on this measure.

Sincerely,

TONY COELHO,
Member of Congress.

WINERIES OF NORTH AMERICA (STATE LISTING)

Alabama	Kentucky	Ohio
Arizona	Louisiana	Oklahoma
Arkansas	Maine	Oregon
California	Maryland	Pennsylvania
Colorado	Massachusetts	Rhode Island
Connecticut	Michigan	South Carolina
Delaware	Minnesota	Tennessee
Florida	Mississippi	Texas
Georgia	Missouri	Utah
Hawaii	New Hampshire	Virginia
Idaho	New Jersey	Washington
Illinois	New Mexico	West Virginia
Indiana	New York	Wisconsin
Iowa	North Carolina	

Mr. HORTON. So you would realize this is not just a California-New York bill. It includes a lot of States and many States that are in the process now of building up a wine industry.

I think for us not to have this type of legislation will kill those industries very quickly.

Chairman GIBBONS. Well, you know, there is another big factor out there. I am not going to blame all of our trade problems on this one factor, and that is the huge fiscal deficit we are running. That runs up the value of the dollar because the interest rates have to go up in order to contain inflation. That acts like a subsidy to imports and a penalty to exports. But there are other problems in the wine export area that you all face, and we will try to remedy that through negotiations, through the legislation you presented, which I think is an appropriate manner to go about the problem.

Mr. Frenzel, would you like to inquire?

Mr. FRENZEL. Yes, Mr. Chairman, I want to thank three gentlemen for their testimony and to apologize to them for arriving late—

Mr. THOMAS. Which one do you not apologize to?

Mr. FRENZEL [continuing]. And applaud the fourth one for the brevity of his comments.

Mr. THOMAS. Oh, all right.

Mr. FRENZEL. I would like to ask Mr. Coelho to whose testimony is attached the letter from the American Soybean Association. Will that association contact this committee as it has contacted you? We would like some testimony from them.

Mr. COELHO. As I understand, Mr. Chairman, there will be a statement submitted. I am not sure they will be testifying. But they will submit a statement in support of the compromise indicating they are in agreement with what we have here.

Mr. FRENZEL. Their original position was that they were nervous about retaliation. Somehow you have quieted those concerns, have you?

Mr. COELHO. Yes, sir.

Mr. FRENZEL. Agreed to by all their surplus?

Mr. HORTON. If necessary.

Mr. THOMAS. Make soybean wine.

Mr. COELHO. Their concern is whether or not the legislation was GATT compatible. We have worked on that and we have now made it GATT compatible to their satisfaction. Even individuals at STR agree that it is GATT compatible. I don't know what STR will say today when they appear to testify, but we feel comfortable with that now.

Mr. FRENZEL. I guess the problem I have, Tony, is that a set of agreements with other countries where they have negotiated some access to our market and ours to theirs and we have of course never demanded sectoral reciprocity nor in my judgment should we. But your bill provides that the President may, if he doesn't find it out there, may take steps against it. As I understand it that would be one of the problems plaguing the soybean groups and others and it looks to me like you have done a good job of rewriting your bill except you still don't, I think, get at that problem.

Would you comment?

Mr. COELHO. Basically, Mr. Chairman, what we have done is that—Mr. Frenzel, I am sorry, what we have done is made it in effect up to the STR and the President to take actions under certain conditions. All we do, for instance, where we permit the producers to go ahead and take some actions as opposed to the industry as a whole, ITC can do that and has in limited cases. We make this consistent across the board. We do not feel that it violates GATT.

Now, the soybean people were obviously very concerned because of the negotiations that they have entered into and the agreements that they have and that they do not want to see retaliation. They would be concerned about that. But, Mr. Frenzel, I would have to also tell you as one who produces in my congressional district 220 different agricultural commodities with a tremendous amount of those commodities going into the export markets that we would not like to see retaliation in my district, either.

So we are not looking for retaliation. All we are looking for in this bill is fairness. As you know, with the situation with the dollar today and the problems with the trade deficit, as the chairman pointed out, that becomes a negative factor for exports and a positive factor for imports. But what we have seen in a number of cases is that several of these countries that we try to export to impose unfair trade restrictions on our commodities going into foreign markets.

We are not asking for subsidies. We are not asking for any limitations on those products coming into our markets. All we are asking for is reciprocity, or the same restrictions on their products coming here as they place on ours. We don't want anything more than that or anything less than that. It is a very simple bill.

Mr. FRENZEL. I appreciate that. I agree it is apparently simple but to me it is not wholly simple. For instance, America protects much of its agricultural produce whether it be rice, cotton, peanuts, tobacco, wheat, corn, dairy, whatever. There are tariff barriers—take my own State—on dairy products. Supposedly we have

negotiated over the years with the Fiji Islands so they have agreed to protect their wine industry and we have agreed to protect our cheese industry. Now suddenly we say, OK, you guys got to give up whatever protection you had on your wine industry because our wine industry would like to export to you and they say, hey, wait a minute, we made a deal a long time ago, what are you going to do about all the existing agreements?

What does the Fiji Islands do in that case? Simply sit back and take a kick in the head?

Mr. COELHO. Mr. Frenzel, I am not sure of all the negotiations that we have gone through over the many years that we have had the Trade Act and I am not sure of all the agreements that we might have reached with other nations. I don't know of the agreements that we might have reached in regards to wine versus other commodities. I do not know of anywhere we have provided access to our markets, restrictions on our wines to their markets, but if that is the case, I would like to know details.

It might be if there has been an exchange that we should honor it. I am coming to the point, though, that we are not asking for any unfair or any additional restrictions on any wine coming into this country. We don't want that in the wine business. All we want is equal access to their markets. We recognize that with the dollar situation that we are going to have an advantage. We cannot fight that nor are we trying to. All we want to do is to have the access to their market and compete with the French in their market or the Italians in their market and we can do that. We think the wine from California, New York, and the other 38 States that produce wine that if given a chance we can be competitive but we cannot be competitive if they won't let us have access to their market because of these unfair trade restrictions.

Mr. FRENZEL. I thank you, and I think I understand the burden of your message. My problem is that sectoral reciprocity has not been a part of our trade policy, and probably shouldn't be because when we violate it with this sort of legislation we are likely—still likely to encourage retaliation.

I might state further that the wine industry has never used section 301. It has been available to it. This just seems to be a bill that allows the use of section 301 to literally find in advance that there are necessary barriers and unfair tariffs. I see that the other—one of the other gentlemen from California wants to respond to that statement.

Mr. Thomas.

Mr. THOMAS. I just want to say, the gentleman from Minnesota knows that in the last 9 months to 1 year, in our negotiations with the Europeans, I think you will agree we have seen a change in the general climate of our discussions. As you will recall, back in January when the original Wine Equity Act was just being discovered on the Continent in terms of the possibility that the United States actually might get serious in dealing with some of the problems that were certainly be recognized verbally but were never dealt with in any substantial way, that indeed the Wine Equity Act was a topic of discussion between European parliamentarians and Members of the U.S. House of Representatives along the lines of changing the focus of our discussions, because the Europeans had

constantly bombarded us about soybeans and about oils and fats, tax possibilities. The complaint we heard originally in our testimony about the Wine Equity Act was that it was GATT violative, that this was an extreme measure, that the President shall be required to take necessary measures.

We took the criticisms to heart, went back and worked with the industries affected, resolved the differences between industries. The soybean industry, with the knife of the European Common Market's threat to its throat, supports this legislation. You will get documentation to that effect. So that industry feels comfortable with it.

As you indicated, the legislation says the President may, rather than shall. What we are talking about is providing this administration, and any administration, with another tool. We are not saying they have to use it. We are not requiring them to use it. But what we are saying is that we have begun to discuss some specific remedies for a particular segment of our trading areas. Others may, in fact, begin to surface when they realize that it is possible to focus attention on an area that clearly has problems. And if they can come up with some creative and sensible opportunities such as I think this bill presents, then I don't see anything wrong with us talking about providing this as a tool for the administration in dealing with those people who clearly have an advantage whether or not it can be quantified and laid before you in a way in which you then believe that there is beyond a shadow of a doubt the fact that they are subsidizing or that there is not a "level playing field" in dealing with these products.

Those of us who perhaps are a bit more sensitive to them than you are feel strongly that there are. But as my colleague from California indicated, we are not asking for those kinds of reactions on the part of our Government. All we are asking for is the opportunity to compete on a level playing field. We don't seem to have the tools available.

Yes, we are sensitive to GATT. We have changed the legislation so it is not violative of GATT. Yes, we are sensitive to other products, so we don't throw ourselves around to the detriment of other agricultural products. We have resolved those problems.

I think the problem is that you just don't want to focus—and I fully understand where you are coming from in terms of your general concerns—you don't want the United States to focus on a particular product that may be damaged. I just have difficulty in the long run understanding how we can get the attention of the Europeans if it is always in a grouping rather than focusing on particular problems.

That causes me difficulties when I see problems and want to resolve them. You tell me we don't have tools to do it. We are trying to provide you with them that are clearly not required to be used but are at least opportunities.

Mr. FRENZEL. I will ask the gentleman, why hasn't the industry made use of the section 301 relief mechanism if it faces all these barriers?

Mr. THOMAS. I suppose they could line up like the canned peaches people, raisin people, wheat flour industry. How many others

have attempted to use section 301? And didn't we just recently get a favorable decision on raisins only to have it reversed?

I suppose they could go that route. That would then buy us another 3 years, and maybe we would not be back before this panel while their hopes were still alive, thinking the section 301 process actually works. I don't think it does, and I don't think it is a reasonable route. I think we need another tool in the arsenal of the U.S. opportunities, not to be required to be used but at least there and available.

I think you will find a change in negotiating attitudes if the United States took this kind of a posture.

Mr. FRENZEL. Well, again, I thank the gentleman for a case well made. But the Hill people told us they couldn't get relief until they filed a case, and it worked for them. I don't think our laws, or trade remedies, were designed to work for every request. I think they were designed to work for requests that fit the criteria of the grievance and the remedies.

It seems to me that most of the time this subcommittee has had groups come before it and say that they wanted a special trade relief or remedy, and we have usually said why don't you use what we got. And show us that it didn't work for you; then if you need something special, come show us.

I think there is going to have to be some testimony that what we got is thoroughly unsatisfactory. It is pretty hard to present since no case has been made.

Mr. THOMAS. I also understand and recall previous testimony—sitting, as the chairman allowed me to sit, as a member of this panel—last fall when we were discussing winter asparagus. The gentleman from Minnesota indicated that, well, is there a market? Are there producers for winter asparagus in the United States? If not, let us change our trade laws to allow folks outside of this country to have an advantage in dealing with winter asparagus.

I indicated to the gentleman if there was a market available we could certainly grow it and we ought not to trade away opportunities.

Part of our problem is, I think, that in negotiations previously the wine industry perhaps was not represented at the table as it would indeed be today, as it has been in recent months by the Ambassador in trade talks with Japan and with other countries simply because they are now aware of the problem.

What we are saying is if you say we have to follow general standards that have been set up for trade, I believe in making those standards the wine industry was not given consideration. As a matter of fact, I think specialty agriculture was not given consideration because people didn't understand the specific needs of specialty agriculture which could have been incorporated at the time had you been aware, so we could be operating more comfortably under the general standards established.

Wine is not steel. When you try to determine subsidies sometimes it is extremely difficult and people can be far more creative in certain economic concerns than others. All we are saying, again, is that at this time we are aware of the difficulty. We are asking that you examine this legislation, which has been changed signifi-

cantly, and that you determine whether or not it is an appropriate tool to be added to the arsenal.

I think if we could turn back the clock 20 years we could make adjustments in terms of our industry's relations with foreign countries in trade discussions. But we can't do that. We have to deal with today's situation, and what we are saying is that with today's situation this legislation I think, especially after the changes that have been made in it, is an appropriate one for the committee to examine to determine whether or not we might begin to move in this direction.

I know it is a significant change in direction, but what we are saying is that this is just one example of the difficulties that specialty agriculture has with our current trade laws.

Mr. FRENZEL. Thank you very much. I hope that my questions do not diminish my commendation to all of you for having made the changes that you did. I think you have come a long way. But I think you ought to know that there are still questions.

Mr. COELHO. Mr. Frenzel, I would like to just state for the record and then hopefully you will pursue when the witnesses come up later. We have pursued an ITC case in regards to grape producers. And when they testify later, they can testify to the problems that existed. Basically they were that our case was substantiated and we still lost because of technical reasons. But I would like them to testify as opposed to me, and not knowing all the details I shouldn't. But they will be happy to address that question.

Mr. FRENZEL. That is good. I will certainly ask them; and if you are not here, I hope you will remind them to spread it on the record anyway. It will be helpful. Again, thank you very much.

Chairman GIBBONS. Mr. Jenkins?

Mr. JENKINS. I want to apologize to the panel for missing most of your testimony. I will read your statements. I will ask one thing that you might have already testified concerning. With all the changes that you have made to make the legislation more acceptable to those who consistently oppose changes in the trade laws to assist any domestic industry, have these changes been made acceptable to the Reagan administration or to Mr. Brock?

Mr. COELHO. Well, I understand, Mr. Jenkins, that STR will be testifying shortly in opposition to the bill as originally drafted and will state that they are also opposed to the compromise. I am not surprised at that. I expect that not only from this administration but from previous administrations, and that STR is generally always opposed to any legislation dealing with domestic industries in regards to trade.

I could make some comments as to who STR represents, but I think it would be best and appropriate for me not to state it for the record.

Mr. JENKINS. At this point you don't think the changes you have made satisfies them?

Mr. HORTON. In my conversations with the administration earlier, one of the major concerns they had was the GATT compatibility. I think we have resolved that and I think that is an important step forward.

Now that still has not sold the administration on our position, but, on the other hand, I would hope that their opposition is much more—much less than it was before.

Mr. JENKINS. Maybe token opposition?

Mr. HORTON. Yes.

Mr. THOMAS. I would say to my colleagues, perhaps it is appropriate that this administration, or any administration, not appear to be overly desirous of a sectoral tool, but they may say no all the way to the altar. When you get to the altar, you might find out that if they were required to accept it, it might be done in reluctance but it might assist in negotiations. So I am not concerned that the administration would be opposed. Perhaps the degree of opposition I would be concerned about.

But I fully understand their need in terms of the merit of nations. They have to deal with not coming out front and being in favor of sectoral legislation, although clearly it is not a reciprocity legislation.

Mr. JENKINS. Thank you, Mr. Chairman.

Chairman GIBBONS. Mr. Schulze?

Mr. SCHULZE. Thank you, Mr. Chairman.

Gentlemen, you are to be commended for this compromise.

Were any of you actually involved with the negotiations for the compromise?

Mr. COELHO. All of us probably were to some degree. I was but so were others.

Mr. THOMAS. I wasn't.

Mr. SCHULZE. I am a little concerned about the administration's continued opposition, and I wonder if there were any talks with the STR, whether the soybean situation was their main concern, whether the GATT incompatibility—according to their view—is the main concern, or what were the results of that?

Mr. COELHO. Mr. Schulze, I don't want to get different people in trouble as such, but there were discussions with individuals at STR and some of the staff people voiced their objections to the original bill and gave us reasons why.

We then were able to present to them alternative language. They were agreeable on a staff level to the language that was adopted but for policy reasons knew that STR would be opposed in general to the bill.

But the language was adopted was GATT compatible—that was their main concern, and they now agree that it is. I don't know how the STR will testify today, but that was the result of our discussions with the responsible individuals at GATT.

Mr. SCHULZE. According to their printed testimony, they will say that now as then the administration strongly opposes passage of this legislation.

Mr. COELHO. Right.

Mr. SCHULZE. What countries will be mainly involved as far as wine imports? Italy and France, mainly?

Mr. COELHO. Italy would be part of it, but I would prefer, if you don't mind, Mr. Schulze, to let the industry address that. I know that unless one of my colleagues wants to, I would just as soon not identify a nation and then be totally off base on that. I know the industry itself could address those more specifically.

Mr. SCHULZE. I would just like to commend this panel, and I will wait until the industry people testify.

Mr. COELHO. Thank you, Mr. Chairman.

Chairman GIBBONS. Thank you.

Mr. FRENZEL. Could I ask another question, Mr. Chairman?

Chairman GIBBONS. Go right ahead.

Mr. FRENZEL. I am trying to grapple with the new bill as distinguished from the old. Is section 8 that amends countervailing duty and antidumping laws, is that new with the revised version?

Mr. COELHO. Yes, it is.

Mr. FRENZEL. Can anybody tell me anything about section 8 or should I ask the wine people about that? It apparently allows raw material producers to complain and, as I understand it, allows the raisin producers particularly to make complaints under those particular laws. Are those people going to be represented here?

Mr. COELHO. Yes, they will be. Mr. Frenzel. Basically what it does is it allows consistency in the law. The grape producers in this particular case, the raisin producers, had been involved in the ITC case. They were kicked out as they were not considered part of the wine industry, and this would, in effect, clarify that to make sure that all grape producers would be at the table as well. So they will be able to testify to that at greater length and to the reason for this inclusion.

Mr. FRENZEL. Does that also cause the change in section 3 where grape juice and raisins are included?

Mr. COELHO. Yes.

Mr. THOMAS. Yes. Raw product producers.

Mr. FRENZEL. That is a substantial change in the law, of course.

Mr. COELHO. From the original bill?

Mr. FRENZEL. No, in the law. It wasn't in the original.

Mr. COELHO. Correct.

Mr. FRENZEL. Well, we can discuss that with the wine people when they are here. Thank you very much.

Chairman GIBBONS. I want to commend all of you again for the vigor and the spirit of work that you have entered into in developing this legislation.

Our next witness is Ambassador William E. Brock, U.S. Trade Representative.

Ambassador Brock, we are happy to have you here.

You may proceed as you wish, Mr. Ambassador. You can make a statement, read a statement or just talk with us.

STATEMENT OF HON. WILLIAM E. BROCK, U.S. TRADE REPRESENTATIVE

Ambassador BROCK. Well, I have been listening just for the last few minutes, and I heard one of the more thoughtful and distinguished members of your panel suggest that we might be dragged kicking and screaming to the altar. I would like to ask for an annulment before we get that far.

We are not going to support this bill, Mr. Chairman. We have not. We will not. We have no prospect of supporting this legislation.

I am not sure I need to elaborate a great deal.

Chairman GIBBONS. Well, tell us why. We have got your conclusions—help us with your reasoning.

Ambassador BROCK. As you recall, my counsel testified in opposition to this legislation back in November 1983. And while certain changes have been made to the original proposal, our earlier testimony is still relevant because we don't find that the substitute proposal alleviates any of the major concerns expressed.

Now, as then, the administration strongly opposes the passage of this proposed legislation. Neither H.R. 3795 nor the substitute language will help us make progress in reducing foreign barriers to U.S. wine exports. Rather, the effect of this legislation would be to restrict wine imports coming into the United States. This is because our trading partners will not reduce tariffs on wine, or any other commodity for that matter, without being legitimately paid to do so.

Since the President has no authority to offer tariff concessions on products entering the United States, and neither H.R. 3795 nor the substitute proposal provides such negotiating authority, negotiations to reduce foreign wine tariffs would be doomed for failure at the outset.

We have no such authority, Mr. Chairman.

Chairman GIBBONS. I have not been able to get you that authority. Maybe we can get it for you piecemeal rather than full out. I would rather get it full out, Mr. Ambassador.

Ambassador BROCK. I appreciate that. We will take it in bits and pieces or in whole, but we cannot negotiate without authority to negotiate. And we have not had that authority since December 31, 1982. I do appreciate the chairman's interest and support and very much appreciate action of the Congress to give us the authority.

Chairman GIBBONS. Perhaps we are building a case now that may be understandable to the American business and labor community that we cannot just sit idly by, we must be moving in this area or we will be overtaken by the various competitors around. We have to be out negotiating and trying to improve our position.

Ambassador BROCK. That is right.

Chairman GIBBONS. We have really taken an "ostrich head in the sand" type attitude to trade problems because Congress has been unwilling to grant further negotiating authority.

Go right ahead. Give us hell as far as I am concerned.

Ambassador BROCK. Well, the problem is that I have such respect for not only this committee but those who have been testifying before you. I hate to find areas of disagreement but it is a little frustrating to have criticism levied at us for not negotiating effectively and then denied the tools with which to negotiate effectively.

Chairman GIBBONS. Let the record show there has been no negotiating authority for a long time.

Ambassador BROCK. That is right.

Chairman GIBBONS. So if anybody wants to jump on you for not negotiating, tell them to look in the mirror.

Ambassador BROCK. Thank you, sir. I appreciate that.

On this particular legislation, and I will just summarize, the bill does not address any of the problems that we raised last November. It is not GATT compatible and has no prospect of being compatible.

As written, it would require us to break our commitments under the GATT, and it would expose us to compensation and retaliation.

Second, it doesn't deal with the problems. I guess that is what really bothers me. I hear people saying we want to expand our markets overseas. Then legislation is introduced not to do anything about overseas markets but to close our markets here at home. That is the net sum and substance of this particular bill.

I don't think that makes a great deal of sense. Our trade policy does not and cannot operate in a vacuum. It really is not possible to increase restrictions on trade in one sector without affecting another. It is ludicrous to think that tariffs on wine could be raised without affecting other U.S. industries.

Our wine tariffs were bound in the General Agreement on Trade and Tariffs only after careful balancing of reciprocal concessions to other exports. Therefore, if we increase tariffs on wine, we just offer equivalent compensation to importers to other products of interest to them. This means that arbitrary protection for the wine industry will result in undeserved disruption for some other U.S. industry.

That is unfair, and it is uneconomic. If we fail to negotiate acceptable compensation with the wine exporting countries, they can raise their tariff on an equivalent amount of trade from us. In essence, this bill would force us to affect trade barriers to the detriment of other sectors unnamed in the bill. It does not, as its proponents claim, provide authority to eliminate restrictions to trade in wines. Were we to raise our duties on wines I would expect the European Community to do likewise in areas such as soybeans or corn gluten feed.

Let me just mention that while we oppose this particular bill we have not been quiescent in trying to deal with the problem. We have negotiated with the European Community in the barriers we found to our products there. We are at this moment taking action to implement agreement with them under which the EC will recognize our industry's practices and the United States will provide certification documents necessary for entry into Europe.

Furthermore, as a result of our discussions with Europe, the Europeans have now eliminated the countervailing duty imposed on U.S. wine in Europe. They have zeroed it out. These actions will provide additional marketing opportunities for our wine exports. In other words, we are dealing with the problem without legislation and without the reciprocity and pain that would come with it.

Second, with respect to Japan, we recently got agreement from the Japanese Government for a reduction of its ad valorem duty by almost a third, from 55 down to 38 percent. Duties will be reduced on bulk sparkling and for the identified wines, and we believe, as do many in the industry, that this action will significantly increase the opportunities for exports to Japan.

So the essence of my statement, Mr. Chairman, is that this bill is unwise and unnecessary. That it would cause far more problems than it would solve. That it does nothing to deal with the opportunity for wine exports. We are proceeding in that area with the limited authority we have, we could proceed a great deal more rapidly with effectiveness were the Congress to give us a broad grant of tariff negotiating authority which has expired.

I would like to have that as an alternative response of the Congress rather than this particular bill which we cannot, as I said earlier, and will not support. Thank you.

[The prepared statement follows:]

STATEMENT OF HON. WILLIAM E. BROCK, U.S. TRADE REPRESENTATIVE

Mr. Chairman, you have asked me to testify on the substitute proposal for H.R. 3795, the Wine Equity Act. You will recall that Michael Hathaway, my Deputy General Counsel, testified on behalf of the administration on the original bill in November 1983. While certain changes have been made to the original proposal, our earlier testimony is still relevant because we do not find that the substitute proposal alleviates any of the major concerns we expressed.

Now, as then, the administration strongly opposes the passage of this proposed legislation. Neither H.R. 3795 nor the substitute language will help us make progress in the reducing foreign barriers to U.S. wine exports. Rather, the effect of this legislation would be to restrict wine imports coming into the United States. This is because our trading partners will not reduce tariffs on wine, or any other commodity for that matter, without being legitimately paid to do so. Since the President has no authority to offer tariff concessions on products entering the United States, and neither H.R. 3795 nor the substitute proposal provides such negotiating authority, negotiations to reduce foreign wine tariffs would be doomed for failure at the outset.

By the provisions of this proposed legislation, the President would be required to direct the U.S. Trade Representative to enter into consultations with designated major trading countries to seek a reduction in foreign tariffs to wine. At the completion of these negotiations, for which the President will be granted no real negotiating authority, if duty reductions have not been achieved by January 1, 1986, the President would be required to raise duties on wine imports under section 301(B) of the Trade Act of 1974. It should be noted that section 301 of the Trade Act of 1974 is designed to provide remedies against unfair foreign trade practices and not a general remedy for trade imbalances. There is nothing inherently unfair about foreign tariffs that differ from U.S. tariffs be they higher or lower.

Further, if reductions in nontariff trade barriers to U.S. wine exports—regardless of whether they were found to be justifiable, reasonable, nondiscriminatory, or did not burden or restrict U.S. commerce—were not achieved by the same date, restrictions under section 301(B) would also be mandatory. In effect, this bill would give the U.S. Trade Representative and the President until January 1, 1986, to achieve the reduction of tariff and nontariff barriers on wine. After this date, the President would be required to exercise his power to apply restrictions to trade in wine.

There is, in my opinion, a major flaw in the conception of both H.R. 3795 and the substitute proposal. U.S. trade policy does not and cannot operate in a vacuum. It is not possible to increase restrictions on trade in one sector without affecting another.

It is ludicrous to think that tariffs on wine could be raised without adversely impacting other U.S. industries. Our wine tariffs were bound in the general agreement on tariffs and trade only after a careful balancing of reciprocal concessions of benefit to other products which the U.S. exports. Therefore, if we increase tariffs on wine, we must offer equivalent compensation to principal exporters through lower U.S. Tariffs on other products that are of interest to them. This means that arbitrary protection for the wine industry will result in undeserved disruption for some other U.S. industry.

If we fail to negotiate acceptable compensation with wine exporting countries, they can raise their tariffs on an equivalent amount of trade from us. In essence, this bill forces us to erect trade barriers to the detriment of other sectors; it does not, as its proponents claim, provide authority to eliminate restrictions to trade in wines. Were we to raise our duties on wine, I would expect that the European Community would choose to raise its duties on soybeans and corn gluten feed.

In sum, passage of the proposed legislation would have a grave impact on other U.S. sectors involved in world trade and would likely have, ultimately, a trade-restricting effect.

Although the goal of reducing foreign barriers to U.S. wine exports is one I have aggressively sought, this legislation would not help us achieve that goal. I have also been advised by representatives of the domestic wine industry that a significant proportion of wine producers in the United States oppose this bill, specifically producers who represent 60 percent of the production in the State of New York, and 20 percent of the production in California. I believe that the concerns of other sectors

of the U.S. economy and the objections within the domestic wine industry itself should be fully considered before any action is taken on this bill.

I would also like to express the administration's objection to a specific provision of the substitute proposal which would amend the Tariff Act of 1930. Section 8 of the proposed bill would expand the definition of "industry" in section 771 of the Tariff Act of 1930 so as to include both the producers of a "like product" and its principal raw agricultural input, in the case of a processed agricultural product. This is apparently meant to make it possible for input producers of the raw material to file antidumping or countervailing duty cases on processed products; that is, grape growers against wine imports, peach growers against canned peach imports. It would also widen the scope of an injury investigation in antidumping and countervailing duty cases.

This is contrary to the antidumping and subsidies codes of the general agreement on tariffs and trade, which provide that "domestic industry" shall be interpreted as referring to the domestic producers as a whole of the like products. The codes provide in a number of places that injury is to be assessed only in relation to the domestic industry producing the like product. Current law goes as far as we can go within the limits of our international obligations.

In fact, the proposed expanded definition of "industry" could make it harder to obtain relief against unfair imports of processed agricultural products. If a soybean processor were to file against imports of subsidized soymeal, we would have to show that the subsidized imports caused injury not only to the soymeal industry, but also to soybean growers. Relief would become impossible whenever the primary product input industry is healthy, no matter how injured the processed agricultural producers may be.

Mr. Chairman, the administration shares the objective of trying to reduce foreign barriers to U.S. wine exports, and we have been able to make some important progress in this area recently on the basis of our current limited negotiating authority.

As a result of our intense negotiations with the Japanese over the past few months, the Government of Japan has agreed to lower its duty on bottled wine by nearly a third, from 55 percent to 38 percent ad valorem. Duties will also be reduced on bulk, sparkling, and fortified wines. I am optimistic that this action will significantly increase U.S. exports to Japan.

Wine exports to the European Community should also improve as both the United States and the EC are taking action to implement an accord on wine under which the EC will recognize our industry's practices and the United States will provide certification documents necessary for entry into Europe. Furthermore, as a result of our discussions, the Europeans have now eliminated the countervailing duty imposed on U.S. wine in Europe. These actions will provide additional marketing opportunities for our wine exports.

Our ability to do more for the U.S. wine industry is constrained by our lack of authority from the Congress to negotiate the reduction or elimination of high tariff barriers. It is for this reason that the administration supports in principle H.R. 1571, the Reciprocal Trade and Investment Act of 1983, a general, rather than sectoral reciprocity bill, which includes a provision granting the executive branch tariff negotiating authority. If H.R. 1571 or similar legislation granting tariff negotiating authority is passed by the Congress, the administration would use this authority to try to further liberalize foreign barriers to U.S. alcoholic beverage exports. A grant of broader authority would enable the President to achieve the goals of the wine equity act while balancing the competing interests of other U.S. trading sectors.

I firmly believe that passage of broader tariff negotiating authority will help to achieve the worthy objective of reducing foreign barriers to U.S. wine exports. H.R. 3795 or the substitute proposal, on the other hand, will only invite retaliatory protectionism from abroad as a response to our own unfair creation of assorted tariff and nontariff barriers in our market.

Chairman GIBBONS. Let me ask you. I realize we are dealing in a very complicated area. I am just trying to keep it within the sector here. I recognize the arguments you have made. Are the United States and Europeans and other potential wine consuming countries' practices reciprocally compatible, or is there a great deal of differences in the barriers that have been erected, ours versus their barriers in the wine area?

That is a tough, broad question, but I am just trying to get general information.

Ambassador BROCK. It varies pretty much from country to country. In Japan, for example while the duties imposed were not ostensibly directed at affecting U.S. wine exports, they did because of the particular type of mix of product that we sell. We have asked the Japanese to move from that particular tax system to an excess tax system. They could maintain their revenue base, if they need it, but remove the discriminatory practice.

They moved in that area at our request, and we have made progress so far. So I can't say that we remain at a disadvantage there. With respect to Europe, the other principal market, we did face a nontariff barrier in the certification practice of certain wines. We negotiated at some length with the Europeans. We reached an agreement on changing those practices as the United States had asked, and then this bill was introduced last year. And after we had reached the agreement but before it was signed the Europeans suspended any further action because they said if you are going to do this to us, why should we conclude such agreements?

After we testified in opposition to this bill, we began to move again affirmatively with Europe, and now I think we have resolved the bulk of that particular element of discrimination. There are other areas where we face particular problems. The reference price for agricultural products in Europe across the board is a discriminatory practice. The European subsidies are, in effect, discriminatory. There, in all candor, we are trying not to deal on a product-by-product basis but on a more generic basis within the GATT.

I never try to suggest to you that something is done until we have a signed contract. But we are apparently making some progress in the conversations under the auspices of the GATT Committee on Agriculture, which was set up in November 1982. And they have begun to address these questions effectively and at least present some options that have to be taken to the political level. And I think it is possible that we could begin to adopt some rules for trade in agriculture.

I think we could begin to have that kind of conversation early in 1985. So there is a possibility or prospect of some progress.

Chairman GIBBONS. I know you and some Members of the Congress have tried to get the major trading partners together to deal with agricultural trade. Are you making any progress on that?

Ambassador BROCK. I think so. It is frustrating and difficult, and we have barriers just like everybody else.

Chairman GIBBONS. Certainly.

Ambassador BROCK. So we are not above the fray.

Chairman GIBBONS. We have some bargaining chips, too.

Ambassador BROCK. We have some bargaining chips if you want to put it that way.

The United States is one country that is bound by no rules in agriculture—absolutely none. We have the section 22 waiver.

Chairman GIBBONS. Temporary waiver.

Ambassador BROCK. Yes.

Chairman GIBBONS. Temporary for 25 years.

Ambassador BROCK. So described, yes.

Well, we have used it on a number of occasions and use it to constrain things like dairy imports into the United States. But with all that we have, I think, begun to make real progress in the world trading system in convincing other countries that fundamentally the rules should be fairly simple and that you shouldn't try to export your problems. You should at least, in third country markets, play, on what is now in the United States political jargon, a level playing field.

Chairman GIBBONS. That is not a cliché, it is a principle.

Ambassador BROCK. That is a principle, yes. But it has been treated as a cliché almost.

Mr. FRENZEL. Now that we have made it sectoral we will make it company by company.

Chairman GIBBONS. Level playing field is different.

Ambassador BROCK. There are those who would advocate person by person sometimes.

Mr. FRENZEL. Bag by bag and pail by pail.

Chairman GIBBONS. Let me tell you the grape problem will not go away. I have just completed along with other Members of the Congress and some other members of a certain political party a tour of part of California, and the grapes are coming on strong.

Mr. FRENZEL. What party was that, Sam?

Chairman GIBBONS. Well, I don't want to be partisan here. Anyway, in my trip down the west coast of the United States, I detoured a little and went through the grape section of California, as I have done before, and I noticed more and more vineyards coming on. There is going to be an awful lot of wine for somebody to consume.

Is any of our wine production subsidized?

Ambassador BROCK. Not that I know of.

Chairman GIBBONS. What kind of trade restraints do we have on our wine? We have a tariff. Do we have any nontariff barriers?

Ambassador BROCK. No, not to speak of. We have the same rules on wine that we do on food products. We ask for certain sanitary or similar criteria to be certified. We accept those certifications from other governments. We have asked that they accept ours. That is part of the negotiations we had with the Europeans.

In the tariff area, our tariffs are about 2 percent of that value, and in the European countries it would run about 3 percent. There is not a whole lot of tariff on either product in either part of the world.

Chairman GIBBONS. It is mainly the nontariff barriers that give us a problem?

Ambassador BROCK. Yes; for the most part. And there are support programs in some of the countries of Europe for the production. You have seen the newspaper articles I am sure of French farmers dumping Italian wine.

Chairman GIBBONS. Makes a wine lover cry. Yes, I have seen that. I know the Europeans are very skillful even within the community of keeping each other's product out of their respective countries. Sometimes pretty violently skillful.

Ambassador BROCK. If you call the use of a meat ax an exercise of skill.

Chairman GIBBONS. Mr. Frenzel, have you got some questions for the Ambassador?

Mr. FRENZEL. Yes, I do. I want to get back to that business of no authority. I note that this bill says in section 4(a) the President shall direct the USTR to enter into consultations and seek reduction in foreign tariffs.

You have already pointed out that you have nothing to give. One of your predecessors once removed told this committee repeatedly that you can't get something for nothing. How in Heaven's name can you negotiate anybody down if you don't have any chips in front of you? Is there any possible way you could do that?

Ambassador BROCK. You can't. What the authors of the bill have suggested is they would use the ultimate chip of denying access to our market if we don't get access to theirs. That is not a chip.

Mr. FRENZEL. Which is just what they told us they were not doing in the bill. They said, we don't want to deny imports, we just want to expand exports. But they have given you a new way to expand exports other than by the threat of denying imports.

Ambassador BROCK. That is right.

Mr. FRENZEL. Well, that bothers me. Do you want to comment on sectoral reciprocity? I tried to raise the question with previous witnesses. They seemed unimpressed by the brilliance of my logic.

Ambassador BROCK. Well, I am sure that I would have been impressed.

Mr. FRENZEL. That is a comforting thought.

Ambassador BROCK. There are two of us left.

I think any of my predecessors would say essentially the same thing that I have said. The whole essence of the trading system we have built for 50 years, since the Trade Act of 1934, is based upon the concept of balance in trade negotiations. Certain nations have certain strengths. It is the old rule of comparative advantage. You try to draw upon those strengths and maximize them in your trading situation as you negotiate.

If you try to draw away from a total approach to trade, from the balanced concept of negotiations, to one in which you are required to achieve parity on a product-by-product, industry-by-industry basis, you destroy the whole concept on which we have built the world trading system.

I use the word "destroy" advisedly. There simply would be no GATT system possible at all. There can be no contract of more than two countries, and we have 91. There can be no contract if you have to deal product by product, industry by industry, because that implies there is not one trade policy but a trade policy for each industry and each product, and that is an impossibility in negotiations. You cannot do it.

Mr. FRENZEL. The history of that has been that we tried to protect what we thought was necessary to protect. So have our trading partners. We have tried to promote access where we didn't think we would hurt them and they would not be bothered, and they have tried to do the same with us.

Ambassador BROCK. That is right, and it has worked very nicely.

Mr. FRENZEL. Next question is, I raised the question on section 8, which amends the antidumping and countervailing duty law to allow raw producers—excuse me—I just wanted to ask you about

that which is a substantive and important amendment to the countervailing and antidumping law and whether it is wise.

Ambassador BROCK. No. The problem with that particular approach is that—and I think Alan Holmer will testify on the subject—this amendment would constitute a clear violation of the GATT and Subsidies Code that we have signed in the GATT. Not only would it violate the present obligations that we have internationally, but I think the second and even more compelling concern that we would express to your committee is that if we expand the definition of industry, this could make it much tougher for us in our efforts to achieve relief against the unfair imports of processed agricultural products.

We have made some progress in that regard in the GATT. We have successful cases there. I think this kind of an amendment would blow us right out of the water in our ability to defend against unfair trade practices of other countries. So, we lose both ways. We break the current agreements, present commitments, break the Subsidies Code we have signed, and we deprive ourselves of an argument and legitimate defense against unfair practices when they occur against our domestic industries.

Mr. FRENZEL. Thank you very much.

Mr. Chairman, I would like to ask two more questions, both of which are historical. The first, in the 1979 negotiations we worked on a problem called the wine gallon problem, which is vivid in memory, and a number of the people who probably will testify today told us at that time that they were monstrously disadvantaged and I suspect they will probably say so again.

Do you have an opinion on that little vignette of history?

Ambassador BROCK. Not really. I wasn't there, and I am not sure I know enough about the logic of why things were done to be able to comment.

Mr. FRENZEL. I wonder if after they have testified that we might ask you to review their testimony and discuss it.

Ambassador BROCK. I would be delighted to.

Mr. FRENZEL. I would ask unanimous consent if that is possible.

Chairman GIBBONS. Certainly. Without objection.

[The information follows:]

U.S. TRADE REPRESENTATIVE,
Washington, DC, September 21, 1984.

Hon. SAM GIBBONS,
House of Representatives,
Washington, DC.

DEAR SAM: At the time of your mark-up of pending legislation in the Trade Subcommittee the Administration clearly expressed its objection to "Section 8" of the Wine Equity Act, which would amend the Tariff Act of 1930 with regard to the definition of processed agricultural products. Enclosed is a memorandum which I offered to provide for inclusion in the record that has been prepared by my office outlining our specific objections to this provision.

In our view, "Section 8" represents a major departure from existing U.S. law and a serious violation of the "like product" provision of the GATT, the international Antidumping Code and the Subsidies Code. Such a violation exposes U.S. exports to a serious threat of foreign retaliation.

The Administration strongly opposes this provision, as it does the entire Wine Equity Act. Please let me know if I, or my office, can be of assistance to you in its further consideration.

Very truly yours,

WILLIAM E. BROCK.

[Memorandum]

OFFICE OF THE U.S. TRADE REPRESENTATIVE,
EXECUTIVE OFFICE OF THE PRESIDENT,
Washington, DC, September 21, 1984.

To: The Honorable Sam Gibbons, Chairman, Subcommittee on International Trade.
From: Claud Gingrich, General Counsel, Office of the U.S. Trade Representative.
Subject: Section 8 of the Wine Equity Act.

Section 8 of the Wine Equity Act would amend section 771 of the Tariff Act of 1930 (19 U.S.C. 1677) to create a new definition of the domestic industry in anti-dumping (AD) and countervailing duty (CVD) cases involving imported processed agricultural products. It would treat the growers of a primary agricultural product as part of a processed agricultural product industry if the growers allege that they are being materially injured by dumped or subsidized imports. Accordingly, section 8 would allow the growers to opt into a AD or CVD case if they conclude that their inclusion in the industry will help satisfy the injury test.

Section 8 represents a clear violation of the GATT, the Antidumping Code, and the Subsidies Code. Under the GATT and the Codes, the imposition of antidumping or countervailing duties requires (1) a finding of dumping or subsidization and (2) a determination that dumped or subsidized imports are causing or threatening material injury to an "industry." The Antidumping Code and the Subsidies Code specifically provide that "the term 'industry' shall be interpreted as referring to the domestic producers as a whole of the like products . . ." The Codes define the term "like product" as "a product which is identical, i.e. alike in all respects to the product under consideration."

Section 8 violates the "like product" requirement by treating growers who are not engaged in the production of a "like product" as part of the industry. For obvious reasons, a raw agricultural product, such as an apple, is not "like" a processed agricultural product, such as apple juice. An apple is a distinct product and can be used for a variety of uses other than juice, e.g. table apples, applesauce, canned apples, etc. The inclusion of profits and losses on sales of raw apples for applesauce, table apples, etc. would have the practical effect of distorting the analysis of injury to the apple juice industry.

Section 8 is inconsistent with the intent as well as the letter of the GATT. One of the purposes of the "like product" requirement was to prevent attempts to carve out fictitious "industries" for purposes of satisfying the injury test and justifying the imposition of dumping or countervailing duties. Section 8 would treat growers as part of the industry only if they allege that they are suffering material injury. In other words, the growers would be treated as part of the industry whenever their inclusion would make it easier to obtain import relief, but excluded whenever their inclusion would make it more difficult to prove injury. We see no justification in terms of the purposes of these laws for treating growers as part of a processed agricultural product industry only if they help an industry's case.

Because section 8 represents such a clearcut violation of the GATT and the international Codes, it invites foreign retaliation against U.S. exports. While the United States has a right to impose AD and CVD duties, this right must be exercised in accordance with the rules of the GATT. If we impose AD or CVD duties in violation of the rules, our trading partners have a legal right to retaliate against our exports.

This risk of foreign retaliation is particularly acute in the case of section 8. Section 8 is designed to overrule the decision of the U.S. International Trade Commission ("ITC") decision in Certain Table Wine from France and Italy. In the Table Wine case, the Commission unanimously found that imports of French and Italian table wine were not causing injury to the U.S. wine industry. The petition for CVD relief was supported by the grape growers, but not by the U.S. wine producers, who generally refused to cooperate with the investigation. The ITC refused to include the grape growers in the "wine" industry. The ITC has treated growers as part of a processed agricultural product industry only when (1) the raw agricultural product is part of a "single, continuous stream of production" resulting in a single processed agricultural product and (2) there is a substantial "commonality of economic interest" between growers and processors. See e.g. Frozen Concentrated Orange Juice from Brazil, Inv. No. 701-TA-84 (1982); Lamb Meat from New Zealand, Inv. No. 701-TA-80 (1981). If a raw agricultural product is used in the production of a single processed product and has no other uses, the growers are in a sense engaged in the production of a like product, although their activity takes place at an earlier stage in the production of that product. This exception, however, did not apply to the grape growers, since their grape production is used for table grapes and raisins as well as wine. Section 8 is designed to legislatively overrule the ITC's decision.

The European Community (EC) has threatened to retaliate against U.S. agricultural exports if the United States imposes countervailing duties on French and Italian wine after a finding of material injury under section 8. Normally, threats of retaliation for AD and CVD actions are rather hollow, since the right to impose CVD duties is recognized in Article VI of the GATT. If we violate Article VI, however, we would be placed in an indefensible position if the EC carried through on its threats of retaliation. While our trading partners would concede our right under Article VI to impose countervailing duties, they would regard section 8 as a form of cheating, since it is contrary to the provisions of the GATT. We would find it difficult if not impossible to successfully challenge the EC's retaliation in the GATT.

It has been argued that section 8 is necessary because imports of an agricultural product can injure the growers. We do not dispute that farmers can be injured by imports of processed agricultural products. Such import competition may force U.S. processors to cut prices or production and cause a loss of market share, the effects of which would be passed on to the farmers producing the raw product. However, in these circumstances, the U.S. processors would show direct indications of material injury and the resulting relief would benefit farmers as well as processors. In this situation, for example, the processors would show direct injury in the form of (1) price suppression or depression as a result of low import prices, (2) market share lost to imports, (3) declining profits and production, (4) lost sales, etc. If direct evidence of injury to the processors from imports is lacking, it is unlikely that the problems of the growers of the agricultural products are caused by the imports, or for that matter, that the imposition of antidumping or countervailing duties would help the farmers. Finally, to the extent that processors sometimes are also engaged in the importation of the allegedly dumped or subsidized merchandise and have less incentive to seek relief, the "related parties" provision of section 771(4) of the Tariff Act of 1930 authorizes the ITC in appropriate circumstances to exclude such processors from the industry.

As a practical matter, by encouraging growers to file AD and CVD cases without the support of U.S. processors, section 8 is likely to result in efforts by the ITC to subpoena confidential financial information from processors and packers, a situation that occurred recently in the *Table Wine from France and Italy* investigation. The amendment also will encourage foreign governments to enact similar, GATT-inconsistent legislation to make it easier to impose antidumping or countervailing duties on U.S. exports of processed agricultural products. The United States is a strong exporter of agricultural products, and the creation of rules which make it easier to subject agricultural products to increased duties is contrary to our interests.

Mr. FRENZEL. Lastly, it looks to me like wine consumption is rising faster than production.

Ambassador BROCK. Yes.

Mr. FRENZEL. One wonders then about the big push overseas. Of course we in this committee just love to see people promoting exports. We think it is the world's greatest thing. We want to help them and encourage them all we can. But in this industry it is a little mysterious that this big push is on now when you know what we are looking at is price increases in the United States.

If we are able to get into some additional markets, or if we limit imports most of those alternatives would seem to spell an increase in wine price for the consumers of the United States.

Do we have any idea, has there been a great land boom out there? Have they got trouble recovering and making money because the vineyards have been sold back and forth until they got pretty high costs?

Ambassador BROCK. I think a couple of problems are evident. One, there was an explosion of land prices, and then a slump in agricultural land prices generally in the United States in the recession. But the larger problem, Congressman, is the remarkable strength of the U.S. economy and the remarkable strength of the U.S. dollar. That has put us in a difficult position, and a lot of industries in the United States, a lot of whom you are hearing from, know that. It is something that I hope can be dealt with as we

begin to address the deficit, a question this Congress has to face over the next few years.

But fundamentally, the United States has done a remarkable and almost incredible job of competing in the wine area. We have in the shortest period that I am aware of, produced a brandnew industry and a brandnew product that is better in almost all of its varieties and forms than competitors that have been in the business for several hundred, and in some cases more than a thousand years.

We have done a remarkable job in the United States. Our people have done a remarkable job. I think they deserve a lot of credit. They are under a great deal of short-term pressure because of the value of the dollar. That will change. Hopefully that will change as our deficits and interest rates come down. But at the moment there is not much that can offer them hope, other than the fact that they have a better product and at a competitive price, and consumption is going up.

Mr. FRENZEL. Mr. Chairman, I would like to close by remembering that in the GATT ministerial you were promoting U.S. agriculture so hard that you served a very nice Thanksgiving dinner at which time you insisted on serving California wines so that our trading partners would see the quality and knowing how cheap we in the U.S. administration are because of what was obviously the low priced.

Ambassador BROCK. I think this shows we have good taste.

Mr. FRENZEL. Thank you very much, Mr. Ambassador.

Chairman GIBBONS. Mr. Jenkins?

Mr. JENKINS. Thank you, Mr. Chairman.

Mr. Ambassador, one statement Mr. Frenzel made I was not aware of. Consumption here is outstripping domestic production?

Ambassador BROCK. I haven't seen recent numbers on that. I was accepting the statement, but I have not seen the numbers.

Mr. JENKINS. I had seen a statement in someone's prepared testimony that in 1985, we will have a full year's inventory of raisins, and that we will have 500 or 600 million gallons in wine inventory.

I was wondering if consumption is growing faster than local domestic production where the real problem is? Does the American public simply prefer imported wines?

Ambassador BROCK. No; I think there are some who think that anything imported is better than anything domestic. That is not applicable to most Americans. So, I don't think it is the major problem.

We have had, Congressman, some very tough competition mostly from Italian wines. The Italians are producing a good, low priced wine that is coming in well below anybody else's price and they have taken a substantial share of the import market in the last years. That is a matter of some concern.

Mr. JENKINS. Is Italy the country that we have the major problem with.

Ambassador BROCK. In terms of bulk volume I would say the largest increase certainly has been from the Italian side. You have to remember that if you look at the U.S. dollar versus the French franc or the lira, in either case, there has been almost a 100-percent change in value, put it conversely, a 50-percent devaluation, so

that their prices have been cut in half in terms of the U.S. market without change in their price in Europe simply because of the relationship between the currencies and that has been a part of the problem.

I don't know how to comment on the inventory numbers with respect to wine. Someone wiser than myself would have to analyze that. We are in the United States doing things differently from what we were doing 10 years ago. We were selling most of the wine that was being produced, it was fairly young wine. Today a lot of the wine is put into storage to age to acquire a better quality. That has to be part of the calculations.

Mr. JENKINS. What do you think is the answer to the dilemma of domestic wine producers? Are they to simply hold on and hope for a change in the currency valuations or is there something we can do to assist them since the administration opposes this particular approach?

Ambassador BROCK. We have taken the technical steps that can be taken. We have negotiated with the Europeans to remove the nontariff barriers. We have made progress in that regard. There is a market opportunity in Europe that did not exist a year ago. That is part of the answer.

We have done the same with respect to Japan. There is a greater market opportunity in Japan than there was a year ago. Substantially greater in our judgment.

They can take advantage of those.

Congressman, there comes a time when you have to say we cannot keep quick fixing the darn thing. You lay one ad hoc solution on top of another and we create just a zoo of solutions we can never get out from under 2, 3, 4 years down the road. Until we go back and deal with the fundamental problem nothing else will make any difference. That problem has been addressed. Congress just passed within the last couple weeks legislation that was called the downpayment legislation to deal with the deficit.

The deficit is causing pressure on the financial markets and in my judgment has resulted in a stronger dollar than we would otherwise have, and higher interest rates than we would otherwise have, and as a consequence it is tough competing out there.

But most of our businesses are doing pretty well in handling competition under adverse circumstances better than you might expect.

Mr. JENKINS. Is our tremendous deficit really causing all our trade problems?

Ambassador BROCK. It is not causing all of our trade problems, Congressman, but I think I have said this several times publicly, it is the largest single trade problem that we face.

Mr. JENKINS. You mentioned a few moments ago that we have successfully used section 22 in behalf of the dairy industry.

Ambassador BROCK. Yes.

Mr. JENKINS. How does that work? I am not sure I fully understand its use.

Ambassador BROCK. Section 22 waiver. In effect the United States said when the GATT was put together that we reserved all rights, and adhered to no commitments insofar as agricultural

products were concerned. We simply x'ed out any U.S. participation in the rules.

As a consequence we have very tangible and specific quotas on the importation of cheeses, butter, and milk.

Mr. JENKINS. A global quota?

Ambassador BROCK. Yes.

Mr. JENKINS. On cheese, et cetera? So, the global quota is not unique is it?

Ambassador BROCK. Never has been, Congressman. It is just bad policy. It is not unique policy.

Mr. JENKINS. But one that Mr. Frenzel doesn't have a lot of problems with?

Thank you, Mr. Chairman.

Chairman GIBBONS. All right.

Well, Mr. Ambassador, I hope that some day we can get some general authority for you to negotiate. I realize it is very difficult attacking these problems on a narrow sectoral basis and perhaps somewhere in the legislative process this bill may be expanded to cover other things; you cannot ever tell.

Ambassador BROCK. Thank you, Mr. Chairman.

Chairman GIBBONS. Thank you, sir.

Our next witness is Alan Holmer, Deputy Assistant Secretary for Import Administration, the Department of Commerce.

STATEMENT OF ALAN F. HOLMER, DEPUTY ASSISTANT SECRETARY FOR IMPORT ADMINISTRATION, U.S. DEPARTMENT OF COMMERCE

Mr. HOLMER. Thank you, Mr. Chairman.

I will limit my comments this morning to section 8 of the revised bill.

Chairman GIBBONS. All right, sir. Dig right in.

Mr. HOLMER. On its face, section 8 does not seem to be consistent with the bill's overall objective, that of expanding markets for U.S. produced wine. However, based on recent antidumping and countervailing duty investigations regarding wine, it would appear that this change in the Tariff Act is designed to enable U.S. grape growers to file successful AD and CVD cases against imports of wine.

Chairman GIBBONS. Does it make any difference who files the case, as long as there is a case there? Doesn't it make any difference who the plaintiff is?

Mr. HOLMER. It can make a difference. In the case filed in March 1984, the ITC looked at the industry was producing a like product. They concluded that the industry was those who were the producers of wine; they did not include within the industry those who produced simply grapes.

Chairman GIBBONS. That was a decision by our Government?

Mr. HOLMER. A decision by our ITC. They looked at factors of whether there was substantial product integration, that is, whether grapes go exclusively to making wine; and whether there is commonality—

Chairman GIBBONS. What else do you make wine out of other than grapes?

Mr. HOLMER. In 1983 approximately 42 percent of the grapes produced in the United States went into wine, the remainder went into table grapes, like the grapes that you buy at the grocery store, or would go into raisins.

Chairman GIBBONS. But do you make wine out of anything but grapes?

Mr. HOLMER. Not that I know of, sir.

Chairman GIBBONS. I had never found any, I just wondered. You know—go ahead.

Mr. HOLMER. At any rate, we have five principal concerns with respect to this provision.

One, we believe that in terms of general U.S. trade policy, the AD/CVD statutes should apply uniformly to all products. Amendments such as section 8 which are proposed to solve a specific industry's problem should be avoided.

Chairman GIBBONS. How does it involve the problem? Give me the wording of that section. What is the change that is actually made?

Mr. HOLMER. The change is in the definition of what is the industry. The change would say in the case of a processed agricultural product such as tomato sauce or frozen orange juice, things of that nature, the industry shall consist not just of the producers of that final product, the processors of the product, but those who produce the raw agricultural product. That is, tomatoes in the case of tomato sauce or paste or oranges in frozen concentrated orange juice.

Mr. FRENZEL. Will the chairman yield?

Mr. Thomas said we tried a section 301 case, the case of the raisin processors I believe. As I recall the ITC threw the case out because they were not a producer of wine. They were a producer of raisins which was something that goes into some wines.

Mr. HOLMER. Yes.

Mr. FRENZEL. If the chairman will yield further—

Chairman GIBBONS. Sure.

Mr. FRENZEL. Open it up to producers, and eventually I presume that distributors and other suppliers would ask for the same kind of standing and you then have a law in which everybody in the world can file a section 301 case. The ITC is a good organization but I am not sure it can handle the load that would be produced by that kind of a change.

I thank the chairman for yielding.

Chairman GIBBONS. Let's just take oranges. You know the interest of the orange grower and the frozen concentrate producer in Florida is not synonymous. The orange grower prefers to have high prices for his oranges on the tree, and the concentrator prefers low prices. You mean to tell me a Florida orange juice grower cannot bring a case where the juice is being dumped into the United States?

Mr. HOLMER. It is handled on a case-by-case basis.

Chairman GIBBONS. Let's get down to oranges. I understand them better than I do grapes.

Mr. HOLMER. I appreciate that.

Chairman GIBBONS. You are telling me something I didn't understand. You tell me my growers cannot bring a case in that case?

Mr. HOLMER. No, in 1982 the orange growers brought a case, it went to the ITC and they made a determination that the growers had such a commonality of economic interest and that oranges were used so exclusively for frozen concentrated orange juice that the ITC found they should be considered to be one industry. The growers were able to bring that case successfully.

Chairman GIBBONS. I see.

Mr. HOLMER. There are other instances with respect to lamb meat from New Zealand or fish from Canada where the same result was reached. There are other cases where they concluded there is not that degree of commonality of interest, where the raw product goes to produce other kinds of things and therefore they did not consider it to be one single industry for the purposes of their investigation.

Chairman GIBBONS. Often times the producer of the raw material and consumer of the raw material that turns it into different products have an entirely different attitude toward the price of the product, and in many cases—I don't have specific examples—but in many cases the processor is glad to import a product no matter how cheap it is. One, it keeps down the domestic cost; and two, gives him an advantage on the sales counter. That is all fine and dandy but an orange grower may be sitting down there saying, well, you know, I am having subsidized oranges dumped into my market and the processor doesn't give a hoot whether they are subsidized or not.

Mr. HOLMER. You are talking about oranges coming in, right?

Chairman GIBBONS. Yes. Orange juice coming in, that comes from—we get orange juice from Canada now, you know that?

Mr. HOLMER. I didn't know that.

Chairman GIBBONS. We are. Some kind of crazy manipulation of the tariff laws that we will have to look into. I don't know—I never heard of an orange being grown in Canada in my life. But we are getting orange juice from Canada now and so this little change in the law interests me.

Go ahead.

Mr. HOLMER. Four additional points I would like to make with respect to concerns we have on this legislation.

One, because this amendment is worded in such general terms it could have harmful ramifications for other industries. What could happen is the processed agricultural product producers might be unable to prove injury to themselves from imports if the producers of the raw agricultural input were included as part of the industry and were not being injured as a result of those imports.

Two, it is clearly inconsistent with the language of the GATT which defines domestic industry to be the domestic producers as a whole of the like product.

Third, the proposed amendment would lead to enactment of mirror legislation by our trading partners and we have no guarantee it will be restricted to the agricultural sector.

Fourth, I have a parochial concern as the one responsible for these laws' administration: It is really unclear how far upstream in the processing chain an agricultural product or processor could be and still be included in the injury determination. Congressman Frenzel alluded to this.

The determination of the "principal raw agricultural product" would be very difficult in practice, especially if competing raw agricultural input producers held different views as to whether they were being injured as a result of those imports.

For example, under the proposed language, take the case of wool cloth. A wool shearer would be included in an injury determination presumably since raw wool is the principal raw agricultural product used in wool cloth. It appears that shepherds would also be included if they wished in an injury determination.

Chairman GIBBONS. Is that bad per se if he is actually being injured by a subsidized or dumped product? Is that actually bad or is it just for the convenience of the government that you think it is bad?

Mr. HOLMER. It would be——

Chairman GIBBONS. Aren't we trying to do justice to a whole group of people?

Mr. HOLMER. We are, yes, but it seems to me the issue is this: if those who produce wool cloth are not being injured as a result of the imports of those processed products into the United States, I question whether we ought to provide relief to those who are in an earlier stage in the processing chain.

I would be happy to respond to other questions.

[The prepared statement follows:]

STATEMENT OF ALAN F. HOLMER, DEPUTY ASSISTANT SECRETARY FOR IMPORT
ADMINISTRATION, DEPARTMENT OF COMMERCE

Mr. Chairman and members of the Subcommittee, I am pleased to appear before you today to discuss section 8 of the substitute proposal for H.R. 3795, a bill to improve the competitive position of United States produced wine. Section 8 would amend the definition of "industry" in Section 771 of Title VII of the Tariff Act of 1930, by allowing the producers of the principal raw agricultural input in a processed agricultural product to be included for purposes of the injury investigation in an antidumping (AD) or countervailing duty (CVD) case on the processed agricultural product.

On its face, section 8 does not seem to be consistent with the bill's overall objective, that of expanding markets for U.S. produced wine. However, based on recent antidumping and countervailing duty investigations regarding wine, it would appear that this change in the Tariff Act is designed to enable U.S. grape growers to file successful AD and CVD cases against imports of wine. In February, 1984, my office in the Department of Commerce initiated AD and CVD investigations on ordinary table wine from France and Italy based on petitions filed by the American Grape Growers Alliance for Fair Trade. In March, 1984, however, the ITC found that there was no reasonable basis to believe or suspect that the wine producing industry in the U.S. was materially injured, or threatened with material injury, by these wine imports. The ITC based its decision, in part, on its analysis that the grape growers were not part of the domestic wine producing industry because there was no substantial product integration¹ and little commonality of economic interest between grape growers and wine producers.²

While the Administration strongly supports the goal of increasing U.S. exports of wine, we believe section 8 does not assist in promoting that goal. First, in terms of general U.S. trade policy, we believe that the AD/CVD statutes should apply as uniformly as possible to all products. Therefore, amendments such as section 8 which are proposed to solve a particular industry's problems should be avoided. This amendment, if enacted, would encourage other industries to request similar exceptional treatment under this, and other, laws.

¹ Only 55% of all grapes suitable for use in wine are so used and there are two other major markets for grapes—raisins and table grapes—where growers receive higher returns than in the ordinary table wine market.

² The ITC determined the prices of grape are not tied to the price of wine.

Second, because this amendment is worded in general terms, it could have harmful ramifications for other industries. For example, processed agricultural product producers might be unable to prove injury to themselves from imports if the producers of the raw agricultural input were included as part of the industry and were not being injured by imports of the processed product. In such a case, the direct U.S. competitor would be unable to obtain relief from unfairly traded imports because his domestic suppliers faced different economic conditions.

The ITC already takes special considerations into account when examining whether agricultural producers are injured and looks at both the raw and processed product producers when there is substantial product integration (i.e., the raw product is used only in the processed product) and commonality of economic interest between the two parties, through common ownership or economic integration. Therefore, the ITC does examine this problem and makes its determinations on a case-by-case basis. We believe the present ITC criteria is a more precise standard for determining when the raw product producers should be included in the term industry than the sweeping change proposed in section 8 of this bill.

Third, we believe that the proposed amendment will also create several inconsistencies between U.S. law and our international obligations under the General agreement on Tariffs and Trade (GATT). Article 6.5 of the GATT Subsidies Code and Article 4.1 of the Antidumping Code define "domestic industry" to be "the domestic producers as a whole of the like products³ or to those of them whose collective output of the products constitutes a major proportion of the total domestic production of these products. . ." Section 8 would broaden the term "industry" to include producers of unlike products in contravention of our obligations under the GATT Codes. As you may know, U.S. actions contrary to the Codes could be challenged before the GATT and result in possible retaliation against U.S. exports.

Fourth, this proposed amendment, if enacted, could also lead to the enactment of mirror legislation vis-a-vis the United States by our trading partners. We could have no assurance that mirror legislation would be restricted to the agricultural sector, either. For example, it might take the form of allowing European petrochemical producers to participate in cases against U.S. textile manufacturers. Thus, the ultimate result of this legislation could well be more restrictions placed on and decreased exports of U.S. produced wine.

Fifth, it is unclear how far "upstream" in the processing chain an agricultural producer or processor could be and still be included in the injury determination. The determination of the "principal" raw agricultural product would be difficult in practice, especially if competing raw agricultural input producers held different views on whether they were being injured by imports of the processed imports. For example, under the proposed language, a wool shearer could be included in an injury determination on wool cloth, since raw wool is the principal raw agricultural product in wool cloth. Similarly, it appears that shepherds could also be included, if they wished, in an injury determination on imports of wool cloth.

Conceivably, even farmers that grow the feed consumed by sheep (depending on which raw agricultural product is determined to be the principal one) could also be included in the injury determination in a wool cloth investigation. We believe such consequences, though illogical, are possible under a literal interpretation of the proposed language.

Thank you for your attention. I would be pleased to answer any questions you may have.

Chairman GIBBONS. That expands this way past wine but it is an important consideration and not a theoretical consideration. It seems to me that a person that is injured is a person that is injured that is injured that is injured and when we go erecting nice little technical reasons why they are not injured because it is not a like product but yet we know it has the same causation, then we are doing that for the convenience of the government and not for the convenience or for the benefit of the people.

That is a distinction I had not really recognized up until this time. Maybe I am just not well informed on the subject. But that is something that intrigues me.

³ "Like product" is defined as an identical product to, or one with characteristics closely resembling, those of the product under consideration.

Mr. Frenzel?

Mr. FRENZEL. Mr. Chairman, I think that is a good point. I think what we have to get first is some kind of statement of exactly who does have standing based on the precedents. As I understand it, the problem with the raisins and grape people, was that most of their production did not go into wine, that they were producing table grapes and raisins of which you put two scoops in the bowl of bran cereal and that sort of thing.

Mr. Chairman, if we are going to take care of every person in the chain who is injured, then we got to give the consumer standing and ask that the consumer be given some relief because he is certainly injured when we apply some of these remedies.

Chairman GIBBONS. That may not be a bad idea.

Mr. FRENZEL. I guess I am for it but what I think we need to do is get a look at the act and find out who may, based on the precedents, have standing and how far we go with them.

As I understand, it is quite clear that an orange grower has standing in an orange juice case. Whether a raisin grower has standing in a grape case I think is something else again and whether the shearers' union would have standing in wool cases.

At any rate, your complaint is that this was written in here in section 3 and section 8 to provide specialized relief for these two industries.

Mr. HOLMER. One, that it would provide specialized relief; two, clearly it is inconsistent with our obligations under GATT and there would be retaliation and/or mirror legislation—

Mr. FRENZEL. That is the point I missed. That is correct. One of our problems is that there is a definition within GATT of who is an injured party.

Mr. HOLMER. Yes.

Mr. FRENZEL. And if we want to change that unilaterally we do subject ourselves to retaliation.

Mr. HOLMER. That is correct.

Mr. FRENZEL. And if our trading partners indulge in mirror legislation they of course would subject themselves to retaliation from us.

Mr. HOLMER. Yes.

Mr. FRENZEL. All right.

Was your testimony confined to this section, section 3 and section 8 over which you had jurisdiction.

Mr. HOLMER. Yes.

Mr. FRENZEL. Are you prepared to discuss the question, Mr. Holmer, that Mr. Jenkins discussed about the wine industry?

Mr. HOLMER. I am not. We can provide something for you for the record.

Mr. FRENZEL. We do have a staff paper on the wine industry and I presume a good deal of it came from you originally and we will get other testimony from the people themselves, but I would ask unanimous consent that we provide the Commerce Department with this paper and get their comment if any on it.

Mr. HOLMER. Fine.

Chairman GIBBONS. Without objection.

[The information follows:]

U.S. DEPARTMENT OF COMMERCE,
INTERNATIONAL TRADE ADMINISTRATION,
Washington, DC, August 28, 1984.

Hon. SAM GIBBONS,

Chairman, Subcommittee on Trade, Committee on Ways and Means, House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: During my testimony at the hearing on the proposed revision of H.R. 3795, The Wine Equity Act, held July 24, 1984, I was asked to provide comments on two issues (pages 69 and 70 of the transcript).

The first issue on which I was asked to comment is Congressman Jenkins' questions about the wine industry. In his interchange with Ambassador Brock, the Congressman asked several questions, primarily dealing with why the wine industry is in difficulty if U.S. wine consumption is outstripping production and what the wine industry can do at this point to improve its position since the Administration opposes H.R. 3795. I am pleased to submit the following for the record.

The recent recession, winegrape product decisions, and the continuing strength of the U.S. dollar created several problems for U.S. winemakers including overproduction, inventory imbalances, eroding market share, and slowing consumer demand. But, preliminary analysis suggests that the industry, aided by the current economic recovery, is beginning to deal successfully with many of these problems.

Total U.S. demand for wine, as measured by wine entering the distribution system, rose from about 440 million gallons in 1978 to 514 million gallons in 1982, about 4 percent annually. Aided by the strong dollar and a growing consumer preference for white wines which U.S. wineries could not quickly supply, imports rose rapidly, increasing about 7 percent annually and representing about 24 percent of the market in 1982. In contrast, the quantity of U.S. wines demanded over this period rose more slowly, about 3 percent annually, reaching 392 million gallons in 1982.

During these five years because of significant expansion of winegrape acreage, bountiful harvests, and slowing demand, total U.S. wine production outstripped demand for domestic products and winemakers' inventories grew substantially. Between 1978 and 1982, U.S. wine inventories increased by almost 30 percent, using from about 550 million gallons in 1978 to 710 million gallons in 1982. The combination of weak demand, excessive and unbalanced inventories, and strong competition from high quality/less costly imports had adverse effects on many U.S. winemakers and winegrape growers.

Preliminary analysis of 1984 data suggests that the situation is improving; total consumption (wine entering distribution) is likely to reach about 550 million gallons, up 4 percent over 1983. Consumption of U.S. wines is expected to rise between 3 percent and 3.2 percent, or about 400 million gallons. Winemakers' inventories, which declined in 1983 are expected to drop again in 1984 to about 620 million gallons, about equal to 1979 inventory levels. Imports are likely to capture over 25 percent of the U.S. market but the rate of import penetration increase appears to be slowing notwithstanding the continued strength of the dollar.

In this situation, we do not believe that increased protection in the United States to keep out fairly traded foreign wine is the answer. Rather, we prefer to help U.S. wineries export their fine product. To this end, the Administration has taken several steps to assist the wine industry in marketing abroad, for example, through successful negotiations lowering non-tariff and tariff barriers in the European Community and Japan, respectively. In July, 1984, DOC experts compared EC tariffs on wine in French francs to those in the U.S. and found that, in July, EC tariffs on wine were approximately equal to those in the U.S. (\$0.425 per gal in the EC vs. \$0.375 per gal in the U.S. for wine in containers of no more than 2 liters and \$0.320 per gal in the EC vs. \$0.625 per gal in the U.S. for wine in containers holding more than 2 liters).

If the wine industry believes it is being injured by unfair trade practices, such as subsidies or dumping, it may contact me for information on filing petitions against such practices. I believe, however, the upturn in the economy and measures to control the strong dollar will aid the wine industry more than measures to close the U.S. market.

The second issue I was asked to address was a staff paper prepared on the wine industry. For the record, experts in the Commerce Department reviewed the paper and generally agree with the findings in the narrative portion of the report. However, Commerce Department experts believe that the statistical data in Table 2 is somewhat misleading because the production data refers only to taxable withdrawals, not total production. Users of these data need recognize that annual U.S. wine production is greater than the amounts reflected in column one. Inventory change

should be added to the figures in column one to derive total U.S. wine production. For my further comments, please see paragraphs three through seven of this letter.

Thank you for the opportunity to address the Subcommittee. If you have any further questions, please contact me.

Sincerely,

ALAN F. HOLMER,
*Deputy Assistant Secretary
for Import Administration.*

Chairman GIBBONS. Do you have anything else you would like to add? We have put your entire statement in the record.

Mr. HOLMER. The one final comment I would like to make is that—getting back to the shearer and the wool clothes situation—I think that if you do have a situation where the wool cloth producers in the United States are not injured as a result of imports, we don't believe it is appropriate for those who are at an earlier stage in the process to have standing to bring a case.

Chairman GIBBONS. Why?

Mr. HOLMER. Because if the industry that is the direct competitor, the direct producer of wool cloth, is not being injured as a result of imports, it is very hard for me to see how someone more removed could be injured. That is where we have a fundamental concern.

Chairman GIBBONS. I don't know that I necessarily disagree with you but oftentimes their interests are not the same. A wool clothes producer may not be injured because maybe he is a multinational concern and the importation of clothes is an integral part of his local production or something of that sort. I have not thought this thing through thoroughly, I want you to know.

It is probably a distinction that I had not thoroughly recognized in our trade laws. It intrigues me because I know oftentimes the producers of components are not the same as the final processor of the component because of changes in the business structure. The recent shoe decision is a rather typical example of that. All the industries are not monolithic and they are not the same. I go back to the original industry and I am glad that you did find that the original producer had some standing to seek remedy but certainly the producer of the orange and the processor of the orange, their interests are miles apart, miles apart. They hardly speak to each other in Florida and that is—it is not just recent. It is historic.

The processor is wishing for a glut, the producer is also trying to get the highest price for his product. So their interests are entirely different. I assume that is true with some of the grape growers. I just don't know that much about the wine industry. It looks to me most of the grape growers were not selling on the market, they were selling directly to their own winery or they were selling through some contract that was apparently long term.

Well, thank you very much for coming. It is always enlightening to hear from you.

Mr. HOLMER. Thank you, Mr. Chairman.

Chairman GIBBONS. We next have a panel from the Wine Institute, Mr. Silverman and, Mr. Clawson; from the Grape Growers Alliance, Mr. Weidert; from the Food and Allied Services Trade Department, AFL-CIO, Mr. Harvey and Mr. Weiss.

If all of you would please come forward.

We have the Wine Institute first on this list and unless that is contrary to your understanding or agreement, we will go ahead with the Wine Institute.

**STATEMENT OF ARTHUR H. SILVERMAN, WASHINGTON COUNSEL,
WINE INSTITUTE, ACCOMPANIED BY JAMES B. CLAWSON, CON-
SULTANT**

Mr. SILVERMAN. Mr. Chairman, Mr. Nathan Stackhouse, who testified before your committee in November and who was president of the American Association of Vintners, hoped to be here; he is unable to attend, he asked me to submit for the record his statement.

Chairman GIBBONS. Certainly, we will be happy to do that.

Mr. SILVERMAN. I would like to read my statement because it replies to many of the contentions raised by the opponents.

Chairman GIBBONS. Go right ahead.

Mr. SILVERMAN. My name is Arthur Silverman, I am Washington counsel for Wine Institute, the trade association of the California wine producers. We now have 488 member wineries. I am accompanied here today by James B. Clawson, who is acting as consultant to Wine Institute on trade matters.

Mr. Chairman and members of the subcommittee, I testified before you last November to bring to your attention the serious difficulty our members have in exporting their products. During the intervening months, two of our trading partners have announced changes in their requirements, some of which are still awaiting implementation, that have a positive effect on U.S. wine exports. However, the overall situation I regret to say has not significantly improved. In the interest of time I will not repeat my prior testimony but would ask that it be made part of this submission.

Chairman GIBBONS. If we printed it once, we will not reprint it, but we will refer to it.

Mr. SILVERMAN. Thank you, Mr. Chairman, I appreciate that.

Mr. Chairman, U.S. wine exports continue to decline. Shipments abroad were off another 16½ percent while imports increased more than 7 percent. The United States merchandise trade deficit in 1983 was more than \$60 billion dollars of which the wine trade component was \$822 million. In fact, this historic wine trade deficit has grown 35 percent since 1979. Even more revealing, the ratio of exports to imports for all merchandise is only 1 to 1.3 while the ratio for wine trade is 1 to 26.6. We exported only 7.6 million gallons of wine while over 131 million gallons of foreign wine were imported in 1983.

Those opposed to this legislation mistakenly say that our trade problems are the result of fluctuations in exchange rates or the lack of interest by American wine producers in exporting their product. In my November testimony I acknowledged that while exchange rates and the value of the dollar may have exacerbated the large imbalance in international wine trade, the root of the problem has been the historic lack of access to many important foreign markets.

To illustrate, we need only look at the average value of U.S. wine being exported. If U.S. wine producers had in fact no interest in

exporting, the value of their exports would have increased with inflation. To the contrary, it must be emphasized that in an attempt to continue exporting and offset the increasing value of the dollar abroad, U.S. wine producers have actually lowered their prices.

In 1979 the average value of a gallon of exported U.S. wine was \$3.69. In 1983 the value was \$4.22. Thus the effective drop in prices of U.S. wines exported was more than 20 percent, based on inflation over the 5 years of 35 percent. This in the main offset the increased value of the dollar. Still however, U.S. wine exports continue to decline.

Mr. Chairman, the American wine industry firmly believes that the historic lack of access to foreign markets results from Governmental policies of our trading partners which restrict the opportunity to sell U.S. wine products competitively in those markets. We need the help of our Government to change those policies and reduce the barriers. The proposed legislation is necessary to direct our officials to deal with these problems and provide the tools required to be effective.

With a potential trade deficit of around \$100 billion, it is evident that this country can no longer afford to be doctrinaire, as you yourself stated in the last hearing, in its approach to trade negotiations.

Contrary to the statements of some of those opposed to this legislation, increasing exports through improved market access is the sole purpose of the industry in supporting H.R. 3795. Our industry has absolutely no interest in controlling imports—none—imposing additional duties that will increase the cost of wine to consumers, or seeking special treatment in the American marketplace. We seek only market opportunities with our trading partners substantially equivalent to those they receive in the U.S. marketplace. Certainly we are not unreasonable.

The original version of H.R. 3795 provided authority for the President to treat imports of wine from our trading partners in the same fashion that our exports of wine to those countries were treated. This reciprocity approach created concern in the administration and some sectors of the agriculture community that our trading partners would retaliate against other U.S. agriculture products. Even though we did not agree that the proposed bill would result in additional barriers, we were greatly disturbed by loose talk labeling our bill protectionist. That was clearly not its intention.

We wish to dispel that view and for that reason we are happy to say we have compromised with the soybean interests who now support the amendments offered today. We are not a smokestack industry. We definitely do not need protection. We are the Japanese of the wine world, developing and using the world's highest technology in the production of wine.

Mr. Chairman, as has been mentioned before, intense negotiations were conducted with the soybean interests and other sectors to find modifications to the bill that would make it GATT compatible, thereby removing any legal basis for retaliation and still provide the President additional tools in his repertoire of authority in dealing with trade barriers. The proposed amendments to H.R.

3795 are a result of those negotiations and represent the compromise reached.

We know it isn't what everyone would like. The amendments respond to the major objections of the administration, the importers and other sectors of the agriculture community. We are somewhat surprised that those still opposed are now finding other reasons to object.

I am sure they will find more reasons in the future. Therefore, it would appear that our original paranoia was certainly not unfounded.

The reciprocal aspects of the original legislation, Mr. Chairman, have been dropped entirely. The amendments now direct the President to seek reductions in tariffs on U.S. wines through consultations with our trading partners. The recent Japanese Government announcement about their unilateral reduction of tariffs, including those on wine, is an example of the success such consultations can bring. In the case of Japan, the reduction of the wine tariff from about \$4.50 to \$3.50 per gallon is indeed a step in the right direction. However, a \$3.50 duty, compared to our 37.5 cents, is still much too high, and certainly only of minimal help at this time.

The amendments further direct the President to use existing U.S. law, section 301 of the 1974 Trade Act, to investigate nontariff barriers to wine in those countries designated through the process provided for in the bill. It is not intended to be a global or universal investigation of all countries, as other witnesses will certainly allege.

If barriers are found that burden U.S. commerce and are unjustifiable, unreasonable, or discriminatory, the President is expected to pursue negotiations under GATT procedures to remove those barriers. If, however, a country refuses and the negotiations are unsuccessful, the President is directed to use his discretionary authority under section 301 and other existing GATT compatible U.S. laws, and we have taken great effort to make this bill GATT compatible to compensate the wine industry.

To further underscore the emphasis on wine exports, a new section has been added that would provide export assistance to the U.S. industry under existing export promotion programs of the Foreign Agricultural Service of the Department of Agriculture. The American wine industry has not taken full advantage in the past of available programs because of misunderstandings as to eligibility. This section clarifies the eligibility question and directs that some of the existing funds be earmarked for the use of our industry.

The American wine industry has the desire and the capacity to greatly increase exports. Even though overall exports were down, exports to Japan increased by 49 percent, I might add over a very low base—in 1983, and exports to the United Kingdom remained level despite the reference price system and other barriers. Because of the introduction of this legislation and the interest of this subcommittee shown in your November hearings, the European Community has now accelerated the implementation of the technical accords signed last year, lowered the countervailing duty under the reference price system to zero and implemented changes in the labeling requirements that the wine industry has long been seeking.

These actions merely demonstrate what we have contended all along; that with attention to our problems, solutions can be found. We have not had attention from our governmental trade officials prior to introduction of this bill, contrary to whatever our opponents might have to say about that.

However, it should be understood that these changes are merely regulatory in nature and can be readily revoked. This proposed legislation is needed to assure that the accords are fully implemented, the countervailing duty is not reimposed and other barriers are not erected. If the EEC fully implements and maintains all aspects of their announced actions, it is presently anticipated that the provisions of the amended bill will have no application to the Community.

Chairman GIBBONS. That is good to hear.

Mr. SILVERMAN. Obviously with all the soybean industry exports to the Community, they have great concern regarding the sensitivity of the Community and our intent was to act responsibly which we feel we have.

Mr. Chairman, I might conclude by saying that the proposed legislation will help the American wine industry help itself by enabling it to compete on its merits in international wine trade. The legislation merely calls for competition and is part of the solution to an historic problem. The legislation is solely intended—as I said before—to improve access to foreign markets so that American wines will be admitted into a foreign country on the same fair and equal basis as the wines of other countries are admitted into the United States.

The legislation, and I pointed this out in the November hearing, thus may be aptly described as an export equity and fairness bill. The legislation is an innovative pilot program for a small but important sector of the economy that has historically been overlooked in international trade negotiations. The passage of H.R. 3795 will give the wine industry in the United States the equity it has long sought from its Government representatives and from our trading partners. On behalf of all the industry, I request this subcommittee's positive action on this legislation.

Mr. Clawson and I are available to respond to any questions you may have. Thank you.

Chairman GIBBONS. Fine. We will hear from the rest of the panel and come back for questions.

All right, the American Grape Growers Alliance.

STATEMENT OF JOHN WEIDERT, PRESIDENT, AMERICAN GRAPE GROWERS ALLIANCE FOR FAIR TRADE, ACCOMPANIED BY JOSEPH VICARIO, COUNSEL

Mr. WEIDERT. Thank you, Mr. Chairman.

Mr. Chairman and members of the committee, I am John Weidert, president of the American Grape Growers Alliance for Fair Trade. The alliance is a trade association whose members produce wine or grapes, wine grapes, or table grapes, or grapes used for raisins, grape juices and concentrates, spreads and drinks.

We did not make an effort, Mr. Chairman, to line up a parade of witnesses today from around the country, either individuals or en-

tities. We do speak with a collective voice and I would hope the fact that we don't have a great parade would not diminish what we say.

Chairman GIBBONS. We appreciate that you don't have a parade because we don't have much time for any parade.

Mr. WEIDERT. I might indicate in light of earlier discussion that we do speak for virtually all of the wine grape growers of the country, for virtually all the raisin segment of the industry, the producers, and also for a good bulk of the table grape segments of the industry, which is a smaller portion of the industry making up 10 percent of the usage of grapes in this country; and also virtually all or I think the bulk of the grape juice and concentrate producers in the eight or nine States where they are producing.

So that is our background, our statement reflects a consensus of those interests.

At a time when growers are facing the worst economic crisis of their history because, in our opinion, of unfair trade practices, legislative assistance we think is unquestionably necessary. The proposals before you today represent a good start but we as growers would suggest going even further and I will address that a bit later.

To underscore our urgent need for congressional assistance, let me share with you some grim statistics about our industry. Here, too, I won't repeat a lot of what was said last fall.

U.S. grape growers are expected to lose about \$1 billion in revenues this year—that is, their costs exceeding their returns. Vineyard values have depreciated by \$2 billion or so, that is with a B, in the last 18 months or so. Wine inventories in 1983 reached a full 611 million gallons and we further anticipate a raisin inventory in mid-1985 of over 300,000 tons, which is better than a year's supply of raisins expected to be on hand.

Depressed wine and raisin prices have resulted in the highest level of loan delinquencies, in some areas as much as 500 percent of normal rates, since the Depression.

One of the major reasons certainly for this economic crisis is that U.S. grape growers who produce grapes primarily for wines, raisins, and table consumption are being crippled by unfair trade practices in two of these three outlets. Of foremost concern are our domestic wine outlets, which ordinary table wine imports from France and Italy are rapidly dominating with the help of unfairly subsidized prices. Imports of French and Italian table wines have increased by 24 percent since 1980. They are priced as much as 50 to 80 percent below the actual cost of production. Domestic wineries, which have lost sales to this unfair competition, have been forced to cut back purchases of grapes and to reduce prices paid to American grape farmers.

Unable to sustain these market pressures, the American Grape Growers Alliance filed for relief on January 27, 1984, under U.S. countervailing duty and antidumping laws, asking that duties be imposed to offset the unfair advantages being enjoyed by Italian and French imports. Before the examination at the Commerce Department could even proceed beyond the initial request for information from the foreign producers, the International Trade Commission terminated the proceedings on March 12. In our judgment,

the Commission erroneously determined that the financial difficulties confronting the domestic industry were self-created and were not a result of imports of wine, which by then held a full 25 percent of the U.S. market.

The Commission reached this determination despite evidence in the record that demonstrated a rapid increase in imports, declining per unit prices for the imported product, and a dramatic loss in profitability by the domestic industry.

The alliance is now challenging the determinations in the U.S. Court of International Trade. We are heartened by the court's recent determination in Republic Steel Corporation against the United States, where the Commission was found to have applied excessively rigid standards in its preliminary determination of injury. The court faulted the Commission for failing to assign appropriate weight to information submitted by the domestic party and to accumulate imports from the different countries involved in examining the issue of injury.

In our judgment this is nearly parallel to the situation in our case.

In addition to the need for relief in our wine outlets, we are feeling similar pressures in our raisin export outlets. Massive EEC subsidies to Greek raisin producers have been directly responsible for severely depressing world raisin prices, introducing uncertainty in the raisin marketing process and guaranteeing wide margins between United States and Greek prices. As a result of this system, we have lost much of our bulk raisin sales to the Community; to the extent that consumer package sales are being maintained, it is only at great cost to U.S. growers.

The U.S. Government has sought for more than 2½ years to eliminate EEC raisin subsidies through the General Agreement on Tariffs and Trade [GATT]. The process has been unduly protracted, riddled by the use of unorthodox and dilatory tactics by the EEC. With no end to the GATT process yet in sight, the industry is being forced to question whether the GATT is capable of resolving this trade concern.

Moreover, in disregard of the GATT complaint, the EEC has further flaunted U.S. rights by introducing and later expanding a minimum import price system that offers additional protection for Greek raisin growers and threatens greater harm to U.S. raisin exports, particularly in the area of consumer pack sales. Having no other options, the industry has prepared a section 301 petition, which incidentally is to be filed today, that requests relief against the EEC's minimum import price practice.

Against this backdrop, the Grape Growers Alliance urges Congress to approve not only the substitute proposals being considered today, but certain others that are also vitally needed.

We fully endorse sections 1 through 7 requiring a section 301 investigation and a wine export promotion program. These proposals should help to strengthen the competitive position of U.S. wines around the world.

I would like to discuss section 8, because from earlier discussion I detect there is some confusion. Section 8, containing three amendments to the Tariff Act of 1930, is useful as drafted, but it must be expanded to remove the unwarranted procedural barriers that are

preventing us from obtaining relief against foreign subsidies and other unfair trading practices.

Of the amendments now included in section 8, the first would change the definition of industry to include producers of the principal raw product contained in processed agricultural products. I should like to make the point here that if you read the language carefully, and apparently some officials from the administration and others have not read the language carefully, the producers would be included only if they alleged material injury. They would not otherwise be included. It is an elective. Therefore, if the grower portion of the industry is healthy, the rest of the industry could move forward on its own. So it would not be a case where without consultation within the industry, it would be more difficult for the United States to solve the problem of a processing industry simply because they had to include growers who were doing well. If the growers were doing well they would not elect to be included. So it is an elective and I think that has been an oversight here today.

In the past, the International Trade Commission has considered growers to be part of the domestic industry—the orange juice case, for example—but it has done so on an inconsistent basis. This amendment would ensure, consistent with legislative intent, that growers would never be unfairly prejudiced by an unduly restrictive definition of industry.

The second amendment simply defines “processed agricultural products” using the definition as it appears in the Subsidies Code. It is that simple.

The third and last amendment now appearing in section 8 would require the Commission to entertain refiled petitions so that all interested parties can enjoy the benefits of these Tariff Act revisions. I might indicate here, because of earlier discussion as well, that we have worked in putting this together with other agricultural organizations in this city and around the country. We feel that the provision is broad enough to service the agricultural industry and we do have the support to my knowledge of the major segments of the agricultural industry for the kind of language contained in these three provisions.

In our judgment the amendments should not stop there. Three additional statutory changes should be included in the package to enable our industry and others to present allegations of injury to the International Trade Commission and have a fair opportunity to be heard. Section 9 containing our additional proposals is being submitted for the record. It should be noted that the need and justification for these changes are borne out by the Court of International Trade’s recent decision in the *Republic Steel* case. I think that came down just last month. Perhaps I should check that with counsel but I think it was.

The first provision of section 9 would require the Commission to find a causal relationship whenever imports suppress, depress or undercut prices of a domestic product. Also included in this amendment would be a requirement that the Commission find price suppression or depression whenever domestic producers are selling at below the cost of production in order to compete with imports. We think that is pretty clearcut.

The second provision would require the International Trade Commission to cumulate the impact of injury when imports enter the United States from more than one foreign country and are sold at less than fair value or with the benefit of government subsidies. This change would avoid the anomaly where the Commission could find that there is no injury because the individual imports from separate countries may not injure the domestic industry, but the domestic industry is nonetheless injured by the cumulative impact of imports from all countries.

This was a central theme of the steel case just handed down.

The final necessary amendment would require that in preliminary determinations, material injury or threat of material injury be determined to be by reason of the imports of the merchandise under investigation when the volume of imports has increased or remained at significant levels during the 5-year period preceding the investigation and there has been any price underselling, depression or prevention of domestic price increases.

Without question, in our judgment, these amendments, if passed as a package, will assist our industry in seeking relief against unfairly subsidized wine imports. But the committee should also be mindful that these Tariff Act changes represent sound policy: they are logical and fair; they assure closer conformity with legislative history; and, above all, they will provide all domestic industries, particularly agricultural producers, a better vehicle for seeking import relief.

This committee and all of Congress is urged to give fair and expeditious consideration to the substitute provisions of H.R. 3795 and to the Alliance's additional proposals submitted today for the record. The economic health of the U.S. grape, wine, and raisin industries rests largely with this legislative package. We ask for the help of each of you in seeing that it is passed.

I thank you for this opportunity to testify and would welcome any questions the committee may have.

[The prepared statement and attachment follow:]

STATEMENT OF JOHN WEIDERT, PRESIDENT, AMERICAN GRAPE GROWERS ALLIANCE FOR FAIR TRADE

Mr. Chairman and members of the Committee, my name is John Weidert. I am President of the American Grape Growers Alliance for Fair Trade. The Alliance is a trade association whose members produce wine or grapes used for wines, table consumption, raisins, grape juice concentrates, spreads and drinks.

This Committee is to be commended for the attention it is giving to the substitute proposals of the Wine Equity and Export Expansion Act, H.R. 3795. At a time when U.S. grape growers are facing the worst economic crisis of their history because of unfair trade practices, legislative assistance is unquestionably necessary. The proposals before you represent a good start, but they do not go far enough.

To underscore our urgent need for congressional assistance, let me share with you some grim statistics about our industry. U.S. grape growers are expected to lose nearly \$1 billion in revenues next year. U.S. vineyard values have depreciated by \$2 billion in 18 months. Wine inventories in 1983 reached a full 611 million gallons. We further anticipate a raisin inventory in mid-1985 of over 300,000 tons, which is more than a full year's production. Depressed wine and raisin prices have resulted in the highest level of loan delinquencies since the 1930's.

The reasons for this economic crisis are clear. U.S. grape growers—who produce grapes primarily for wines, raisins, and table consumption—are being crippled by unfair trade practices in two of these three outlets.

Of foremost concern are our domestic wine outlets, which ordinary table wine imports from France and Italy are rapidly dominating with the help of unfairly sub-
 si-

dized prices. Imports of French and Italian table wines have increased by 24 percent since 1980. They are priced as much as 50 to 80 percent below the actual cost of production. Domestic wineries, which have lost sales to this unfair competition, have been forced to cut back purchases of grapes and to reduce prices paid to American grape farmers.

Unable to sustain these market pressures, the Alliance filed for relief on January 27, 1984, under U.S. countervailing duty and antidumping laws, asking that duties be imposed to offset the unfair advantages being enjoyed by Italian and French imports. Before the examination at the Commerce Department could proceed beyond the initial request for information from the foreign producers, the International Trade Commission terminated the proceedings on March 12. The Commission erroneously determined that the financial difficulties confronting the domestic industry were self-created and were not a result of imports of wine, which by then held a full 25 percent of the U.S. market. The Commission reached this determination despite evidence in the record that demonstrated a rapid increase in imports, declining per unit prices for the imported product, and a dramatic loss in profitability by the domestic industry.

The Alliance is now challenging the determinations in the U.S. Court of International Trade. We are heartened by the Court's recent determination in *Republic Steel Corp. v. the United States*, where the Commission was found to have applied excessively rigid standards in its preliminary determination of injury. The Court faulted the Commission for failing to assign appropriate weight to information submitted by the domestic party and to accumulate imports from the different countries involved in examining the issue of injury.

In addition to the need for relief in our wine outlets, we are feeling similar pressures in our raisin export outlets. Massive EEC subsidies to Greek raisin producers have been directly responsible for severely depressing world raisin prices, introducing uncertainty in the raisin marketing process and guaranteeing wide margins between U.S. and Greek prices. As a result of this system, we have lost much of our bulk raisin sales to the Community; to the extent that consumer package sales are being maintained, it is only at great cost to U.S. growers.

The U.S. government has sought for more than two and a half years to eliminate EEC raisin subsidies through the General Agreement on Tariffs and Trade (GATT). The process has been unduly protracted, riddled by the use of unorthodox and dilatory tactics by the EEC. With no end to the GATT process in sight, the industry is being forced to question whether the GATT is capable of resolving this trade concern.

Moreover, in disregard of the GATT complaint, the EEC has further flaunted U.S. rights by introducing and later expanding a minimum import price system that offers additional protection for Greek raisin growers and threatens greater harm to U.S. raisin exports, particularly in the area of consumer pack sales. Having no other options, the industry has prepared a Section 301 petition to be filed today that requests relief against the EEC's minimum import price practice.

Against this backdrop, the Alliance urges Congress to approve not only the substitute proposals being considered today, but certain others that are also vitally needed.

We fully endorse Sections 1 through 7 requiring a Section 301 investigation and a wine export promotion program. These proposals should help to strengthen the competitive position of U.S. wines.

Section 8, containing three amendments to the Tariff Act of 1930, is also useful, but it must be expanded to remove the unwarranted procedural barriers that are preventing us from obtaining relief against foreign subsidies and other unfair trading practices.

Of the amendments now included in Section 8, the first would change the definition of industry to include producers of the principal raw product contained in processed agricultural products. In the past, the International Trade Commission has considered growers to be part of the domestic industry, but it has done so on an inconsistent basis. This amendment would ensure, consistent with legislative intent, that growers would never be unfairly prejudiced by an unduly restrictive definition of industry.

The second amendment simply defines "processed agricultural products" using the definition as it appears in the Subsidies Code.

The third and last amendment now appearing in Section 8 would require the Commission to entertain refiled petitions so that all interested parties can enjoy the benefits of these Tariff Act revisions.

The amendments should not stop here. Three additional statutory changes must be included in the package to enable our industry and others to present allegations

of injury to the International Trade Commission and have a fair opportunity to be heard. Section 9 containing our additional proposals is being submitted for the record. It should be noted that the need and justification for these changes are borne out by the Court of International Trade's recent decision in the *Republic Steel* case.

The first provision of Section 9 would require the Commission to find a causal relationship whenever imports suppress, depress or undercut prices of a domestic product. Also included in this amendment would be a requirement that the Commission find price suppression or depression whenever domestic producers are selling at below the cost of production in order to compete with imports.

The second provision would require the International Trade Commission to cumulate the impact of injury when imports enter the United States from more than one foreign country and are sold at less than fair value or with the benefit of government subsidies. This change would avoid the anomaly where the Commission could find that there is no injury because the individual imports from separate countries may not injure the domestic industry, but the domestic industry is nonetheless injured by the cumulative impact of imports from all countries.

The final necessary amendment would require that in preliminary determinations, material injury or threat of material injury be determined to be by reason of the imports of the merchandise under investigation when the volume of imports has increased or remained at significant levels during the five-year period preceding the investigation and there has been any price underselling, depression or prevention of domestic price increases.

Without question, these amendments, if passed as a package, will assist our industry in seeking relief against unfairly subsidized wine imports. But the Committee should also be mindful that these Tariff Act changes represent sound policy: they are logical and fair; they assure closer conformity with legislative history; and, above all, they will provide all domestic industries, particularly agricultural producers, a better vehicle for seeking import relief.

This Committee and all of Congress is urged to give fair and expeditious consideration to the substitute provisions of H.R. 3795 and to the Alliance's additional proposals submitted today for the record. The economic health of the U.S. grape, wine and raisin industries rests largely with this legislative package. We ask for the help of each of you in seeing that it is passed.

I thank you for this opportunity to testify and would welcome any questions the Committee may have.

H.R. 3795—ADDITIONAL SUBSTITUTE PROPOSALS

SEC. 9.

(a) Section 771 of Title VII of the Tariff Act of 1930 (19 U.S.C. 1671 et seq.) is amended—

(1) by deleting the word "and" at the end of clause (I) of Subsection 771(7)(C) and substituting the word "or" and by adding after the end of clause (II) of such Subsection the following: "In determining whether prices have been either depressed or price increases have been prevented, the Commission shall consider whether the domestic industry has been selling the like product at a price which does not permit the recovery of all its costs of production within a reasonable period of time. The existence of such sales at prices below the cost of production shall indicate the existence of price suppression or depression. The absence of such below-cost sales shall not be interpreted to indicate that imports are not preventing a price increase or depressing the price of domestically sold merchandise."

(2) by adding at the end of Subsection 771(7)(D)(ii) the following new clause:

"(iii) In the case of agricultural products or processed agricultural products, the Commission shall consider the cumulative effect of imports of the product under investigation from all countries which have been included in an investigation commenced by the administering authority pursuant to sections 702 or 732 of Title VII of the Tariff Act of 1930, as amended." and

(b) Subsections 703(a) and 733(a) of Title VII are amended by adding before the last sentence in both Subsections the following: "Material injury, or threat of material injury, shall be considered to be by reason of imports of the subject merchandise if the volume of imports has increased or remained at significant levels during the five year period preceding the investigation and there is any price underselling, depression, or prevention of domestic increases."

Chairman GIBBONS. Thank you, sir.

Now let's hear from the Food and Allied Service Trades Department.

STATEMENT OF JAY HARVEY, LEGISLATIVE DIRECTOR, FOOD AND ALLIED SERVICE TRADES DEPARTMENT, AFL-CIO, ACCOMPANIED BY ABE WEISS, LEGISLATIVE REPRESENTATIVE, DISTILLERY, WINE & ALLIED WORKERS INTERNATIONAL UNION

Mr. HARVEY. Thank you, Mr. Chairman.

I am Jay Harvey, legislative director of the Food and Allied Service Trades Department of the AFL-CIO. With me is Abe Weiss, legislative representative of the Distillery, Winery and Allied Workers International Union. We appreciate this opportunity to comment on the Wine Equity Act, and we support this important legislation that will help correct a market imbalance resulting from inequitable trade practices.

Mr. Chairman, we are all acutely aware of the serious problem of the large and rapidly growing U.S. trade deficit. The projected 1984 trade deficit is expected to exceed \$125 billion. The sharply deteriorated trade position it reflects has been estimated by Data Resources, Inc. to be responsible for the loss of more than 2.5 million jobs, three-quarters of which are in the manufacturing sector.

Reliance on free market forces will not remedy the problem, particularly if we are the only nation playing by the rules of free trade, and the only "free market" is our market.

We think this administration places far too much reliance on the concept of free trade while ignoring the need for fair trade, and ignoring the plight of those workers dislocated by other nations' unfair trade practices.

Yet even President Reagan stated in the "Economic Report of the President" that "We must work with the other nations of the world to reduce the export subsidies and import barriers that currently hurt U.S. farmers, businesses, and workers."

Mr. Chairman, the Wine Equity Act will enable us to do just that.

The trade problems facing the wine industry and the wine workers provide an excellent example of the shortcomings of our trade policy. Here we have a product which is competitive worldwide in terms of price and quality. Yet in 1983 only \$32 million worth of U.S. wine was exported, while \$854 million worth was imported—a trade deficit of \$822 million in wine alone. There are now 600 million gallons of surplus wine in this country, resulting in a curtailment of production and a substantial loss of jobs.

While high interest rates and the overvaluation of the dollar contribute to the trade deficit problem, a major cause of this imbalance is that the United States has sharply reduced tariffs on wine imports—from \$1.25 to 37.5 cents per gallon—while the export market countries generally maintain duties on our wine exports at least double U.S. levels. Japan imposes a duty of \$4.50 per gallon. We understand that in the near future that will be reduced to \$3.50, but that is still an amount 10 times that of the U.S. tariff. The United States imposes no nontariff trade barriers on imported

wine, subjecting foreign wines only to the same laws and regulations applicable to American wines.

Yet most potential foreign wine markets have erected formidable nontariff barriers that discriminate against U.S. wines. Countries such as Chile, Brazil, Argentina, and Mexico virtually prohibit entry of U.S. wines through complex systems of licensing, testing, quotas and certification. The EEC restricts entry of U.S. wines through a variety of nontariff barriers, and several countries offer export price subsidies to facilitate penetration of our markets.

Mr. Chairman, the industry witnesses can better speak to the specific unfair practices and barriers. I am here to point out what a cruel hoax it is to American workers to continue lip service to "free trade" and abandon the pursuit of fair trade. We all talk about the "level playing field"—but so far we have done little to improve field conditions. International free trade in theory should be a two-way street—but in practice the international trade turnpike has become a one-way road into this country, and a dead end street for our exports.

Mr. Chairman, when the industry asked the trade representative what could be done to remedy the situation, it was told the President has no authority to negotiate with foreign countries for the removal of these barriers. While we think the President does have the requisite authority under current law, the Wine Equity Act will provide the President with the explicit authority and mandate to seek reduction of foreign tariff and nontariff barriers to our exports.

Passage and implementation of this legislation will not eliminate our trade deficit nor the severe loss of employment it causes. But it will represent an important start, and send a firm signal to our trading partners that we as a Nation demand fair trade, and will no longer play a solitaire hand of free trade.

Thank you very much, Mr. Chairman.

Chairman GIBBONS. Fine, thank you.

Let me talk about grapes, what percent goes into wine and what percent into raisins and what percent into table grapes or other uses?

Mr. WEIDERT. It varies.

Chairman GIBBONS. It probably varies with the nature of the grape, doesn't it?

Mr. WEIDERT. Yes. generally speaking about 55 percent of the production goes into wine; about 28 percent goes into raisins; about 10 percent into table grapes; and the other 7 or 8 percent into other products, spreads, juices, jams.

Chairman GIBBONS. I think you would probably get more people to eat table grapes if everybody wouldn't use them as decorations when they have a party. I hate to tear up the decorations but I always grab a handful of grapes because I like them. I really wonder, are table grapes usable for wine or wine grapes for table grapes—is there interchangeableness of the grape?

Mr. WEIDERT. There is in some varieties: The concords up in New York and through the Northern Tier States, and the Thompson seedless in California.

Chairman GIBBONS. Is that what you call the new purple looking grapes?

Mr. WEIDERT. Those are the flame seedless.

Chairman GIBBONS. They sure are good.

Mr. WEIDERT. Yes, sir, they are. Thank you. Those two varieties can go to different uses and it is not safe to assume that you can just, without some degree of expense and long-range planning, make the switchover.

In the case of raisins and wine used in the Thompsons, for example, you can make the decision that season by stopping your irrigation a bit earlier and go one way or the other depending on how you handle the tail end of your agricultural practices.

This happened in the wine industry, the glut occurred because of imports coming into the wine industry, and 100,000 grape production acres out of 700,000 are currently being set aside because of reduced demand due to imports. These are the ordinary table wines, not the high quality stuff.

So they all dumped on the raisin market. I shouldn't put it quite that strongly but there was a big shift over to raisins.

It depressed the market there.

So you do have this interplay. At the same time you have interplay with the concords going to juice and to wine; and so there is a ripple effect that is occurring throughout the industry of the United States. You unbalance one segment and it affects another all the way through the system.

Chairman GIBBONS. Well, I don't know whether my observation is accurate or not but it just seems to me there are sure a lot more grapes being planted in California now than there were even a couple years ago; am I correct in that?

Mr. WEIDERT. I cannot tell you whether that is so. I would suspect there are fewer being planted annually than there were at one period in history. There was a period where the economists were projecting from the major banks and the universities that there would be a shortage of wine grapes, a shortage of grapes, and a lot of plantings went in. There was a history of that, the farmers relying on projections they were getting.

What the economists and others did not see at that time was the huge segment of the market that would disappear because of the imports. If we were to take the capability of the acreage presently in the ground in the country and its productive capability today and if we look at the consumption, off-take from the marketplace of grapes in all forms, we would find that we are exactly in balance. However, no one foresaw the 25 percent of the market being taken away, we think unfairly—you can argue as to how much the subsidy accounts for the problems that we are having, but we feel that if it is unfair, it is unfair whether it is a large or small segment of the problem.

We consider that it is a very large part of the problem.

Chairman GIBBONS. If I were to produce wine quality grapes, how long from starting with clearing the land before I got a marketable crop?

Mr. WEIDERT. Well, clearing the land that would suggest something else, bringing raw land into production. I am not sure there are many going in except for the hobby, and family style vineyards going in in some sections and they are going into areas where they have not heretofore been. But you are going to have 5 or 6 years in

planning time and bringing a vineyard into optimum production. You may have an area where you get some production earlier than that, but I am talking about optimum economic production from the time you decide to do it.

Chairman GIBBONS. Five or six years.

Mr. WEIDERT. Yes.

Chairman GIBBONS. Under the tax laws do we require that to be capital gained or capitalized or do we allow it to be expensed? Do you know?

Mr. WEIDERT. You are in an area I cannot address.

Chairman GIBBONS. I just wonder if somebody knows. We treat almonds and oranges and some things differently.

Mr. EMERSON. Yes.

Chairman GIBBONS. I just wondered.

Mr. WEIDERT. I know the tax treatment is not as favorable as some would like to see it. If that answers your question?

Chairman GIBBONS. Well, some want a refund on everything they do. I was going to ask you, do you know if these vineyards are being used as tax shelters?

Mr. WEIDERT. I would say not very many. The problem we see today, certainly with the world economy the way it is, there are outside interests coming into agriculture throughout this country, not just in vineyards. I cannot deny there may be some of that. I happen to be in the San Joaquin Valley where the largest producing area is located. We are not aware in that area—and I am pretty knowledgeable in that area—that there is a significant amount of absentee investment in grape vineyards though I know there is some.

Chairman GIBBONS. I want to ask my staff to check with the tax staff and see whether these are being used as sheltered investments. That may be part of the problem. I am just guessing now. I don't want anybody to take it as being gospel. It may be that a lot of the excess capacity is coming from the fact that people are finding these—the clearing and planting operation—to be a tax shelter and perhaps we can, not in this legislation, but in some other legislation take a look at that practice.

Mr. WEIDERT. I would comment that the lenders, Mr. Chairman, that we deal with—and they are much more knowledgeable than I—do indicate to me it is an insignificant factor in the grape situation. I would not say that that is true in all segments of agriculture but in the case of grapes they see it as being insignificant.

Chairman GIBBONS. Mr. Frenzel.

Mr. FRENZEL. Thank you, Mr. Chairman.

Gentlemen, thank you for your testimony.

Mr. Weidert, you don't have vintners in your association? Some of the producing vintners, people who make wine, belong to your association?

Mr. WEIDERT. Yes, sir. We have a number. When we started out with our ITC case it took a twist along the way where they decided it was only vintners that had a problem, not the growers, so the emphasis shifted. As we started, we put together growers and their marketing organizations, which are grower-owned, including Guild Wineries, Italian Swiss Colony, and Welch Foods of New York, who are basically marketing organizations for their grower members. We did not ask wineries who are well represented by the American

Association of Vintners and the Wine Institute in California to be members of our organization, but many of them have, since we have come on the scene, sent us letters of support for what we are doing and indicating that we are doing what they think we ought to be doing. Your observation is basically correct, we did not go after the wineries. We are working with some of the largest wineries in an ad hoc capacity, though they are not listed as members.

Mr. FRENZEL. Is it true that the largest vintner is supposed to account for one-third of domestic production or about that much?

Mr. WEIDERT. I would defer to the Wine Institute on that exact figure. I suspect it is at least that much.

Mr. SILVERMAN. Yes.

Mr. FRENZEL. You indicated in your testimony when you filed under the countervailing/antidumping statute, the ITC dismissed the case on the basis that whatever problem you had was self-created.

Did that have to do with the expansion of the amount of acreage or what?

Mr. WEIDERT. No, sir, not in my opinion. If I may—

Mr. FRENZEL. Do you recall what the ITC said?

Mr. WEIDERT. I have two counsel with me who are experts in this area, and may I ask if they can respond?

Mr. FRENZEL. Yes, if they identify themselves for the record.

Mr. VICARIO. I am Joseph Vicario, Heron, Burchette, Ruckette & Rothwell.

If I can go into detail about the case that was filed and the industry's analysis of that case, I think the initial problem that we should point out was the fact that as counsel we believe the Commission did not focus on the condition of the grape growers in that they made a legal determination that they were not a part of the domestic industry, so therefore it would be very difficult to say that any problems were caused by the grape growers.

The focus of the Commission was on imports of wine and the impact on vintners.

The reason we feel this legislation is necessary basically is because of the fact that the Commission failed to focus on the impact of wine imports on the grape growers. We felt that a strong case had been made on that basis—strong economic case, a strong factual case.

However, because of the legal interpretation of the statute, the grape growers were denied the opportunity to invoke the countervailing and antidumping duty law. That is the reason we are here today suggesting these changes to the statute.

Mr. FRENZEL. Can you tell me, sir, why you weren't in the first wine bill? Was that drafted before your case was decided?

Mr. WEIDERT. Mr. Chairman, Mr. Frenzel, we initially were pursuing the countervailing/antidumping route before the ITC. Before we were in existence, in fact, the Wine Institute had initiated action on the original Wine Equity Act.

Mr. FRENZEL. I see. Then you joined forces?

Mr. WEIDERT. Since we were getting this narrow interpretation of the ITC laws, which we think is not consistent with the intention of the Congress, we found it necessary to seek legislation, and we joined with the Wine Institute and others in developing the package that is here now.

Mr. FRENZEL. Thank you very much.

Your earlier statement about a self-created problem, according to your counsel was not the ITC basis. They merely said you had no standing and dismissed the case?

Mr. VICARIO. The ITC did do an analysis of the industry and reached the conclusion that the industry had experienced problems, and I believe they did not say material injury but they did recognize some of the problems confronting the industry; and by focusing merely on a 3-year period concluded that imports were not a cause of that injury.

As you can see by one of the amendments that was proposed in section 9, we argued before the ITC that it was more appropriate to examine with respect to this industry a 5-year period. If you look at the problems with imports, they commenced basically in 1980 when from 1980 to the present time there was a 24 percent increase in imports.

We felt the Commission had examined too narrow a period of time. So it is again very difficult for me to get into the mind of the Commission. Their decision speaks for itself. We do feel a fundamental flaw with that decision is the fact they did not examine what was happening in the grape-growing segment of the industry, and we felt that their interpretation of the domestic industry provision of the statute was too narrow, was inconsistent with the past finding where growers have been grouped with the processors in order to examine the overall picture.

Mr. FRENZEL. Thank you very much.

I would like to inquire further about the industry. Our staff has prepared some information, but it seems to stop in 1982 and you are quoting some 1983 figures, and I assume they are now available. Here I am talking about wine, not grapes. It looks like from 1978 to 1982, a 4-year timeframe, consumption was increasing faster than production.

Did that all change in 1983, or where did those surpluses come from that you described in your testimony?

Mr. WEIDERT. I heard that question come up earlier. I don't know what figures you are looking at.

Art, maybe you want to address this.

Mr. FRENZEL. Maybe Mr. Silverman might comment. Our staff indicates that in 1982 consumption was 535 million gallons, but that that was up about 13 percent from 1978 and that production was about 421 million in 1982, and that was up 10.4 percent from 1978.

Those figures may not be the same figures that you have. I assume they came from the Commerce Department, but is that roughly the relationship? That would indicate that there isn't a problem there. But there is, obviously, or you wouldn't be here.

Mr. SILVERMAN. I am not sure of those figures, Mr. Frenzel. Let me give you my understanding.

In my November testimony I pointed out that we had inventories probably in the neighborhood of 500 million gallons.

Mr. FRENZEL. Right.

Mr. SILVERMAN. I believe right now our inventories are probably—don't hold me to the exact figures—probably 562 million or

582 million give or take. What happened is we did have in 1983 a smaller grape crop in California than we expected. It was certainly smaller than the prior 2 or 3 years. What happened is overall imported wine in 1983 I believe was up about 7 percent; we in California showed an increase of about 1½ percent over the prior year. The rest of the domestic wine industry I am almost positive was showing declines.

The overall figure for an increase in 1983 I believe was 2½ percent nationwide. That takes into consideration imports as well as domestic.

I am not sure of the figures you refer to. I don't know if I fully answered your question, but I am a little puzzled by those figures to be honest with you.

Mr. FRENZEL. I have the reference, they come from the ITC. What bothers me is that the ratio of imports to consumption stays pretty steady for the 5 years 1978 through 1982 and, as a matter of fact, imports are up about 30 million gallons and consumption is up about—

Mr. SILVERMAN. The ITC—

Mr. FRENZEL. About 60 million. It didn't look like imports grew that much. They had grown somewhat, to be sure, but it didn't look life-threatening to the industry. And I wonder if 1983 changed a lot or are these figures you don't agree to?

Mr. SILVERMAN. We would not agree to them. The ITC I know contacted us and others in regard to the grape growers' ITC action, and I assume that was prepared in regard to that. I just would have to see the figures and look at them. I can't give you an answer, I am sorry.

Mr. FRENZEL. Mr. Chairman, may we present a copy of this ITC report to the gentleman, and may I ask unanimous consent that he have a week to submit a response?

Mr. SILVERMAN. May I say one thing, Mr. Frenzel, it is possible the ITC was looking at values above and below \$4 per gallon. That might change the figure from the overall figures.

Mr. FRENZEL. I am sure you could figure that out better than I could from these records. I would like to have your thoughts on it.

Mr. SILVERMAN. Surely.

Mr. FRENZEL. Again—

Mr. WEISS. I am Abraham Weiss, and I am the legislative representative of the Distillery, Wine, & Allied Workers Union. I wanted to answer your question, perhaps in a nonstatistical way but with figures I may suggest will suggest the enormity of the problem so far as our union is concerned.

We have two large local unions in California whose members make or produce wines. These unions grew steadily during the 1970's and then began a decline in 1981, as has been suggested, and we have lost approximately 20 percent of our members in a period of 2 years. And this drop in members of approximately 20 percent can underscore the basic point that the production did drop or that in any case the combination of imports coupled with automation or new techniques made it easier for wine to be produced without so many members.

And I think that the committee ought to bear in mind this human factor in terms of this production/consumption relationship.

Chairman GIBBONS. Yes.

Mr. FRENZEL. Thank you.

Mr. VICARIO. May I add one thing to that? With respect to the numbers in the Commission report itself, I would note on A-29 of the Commission report is a very important caveat, and I will quote. It says:

A precise measure of market penetration by imports of ordinary table wine from France and Italy is not possible due to the lack of complete data on domestic shipments caused by the limited responses by domestic producers to the Commissioner's questionnaire.

Mr. FRENZEL. I should make clear that the figures I am quoting came from the ITC's report on the first wine bill and not on their report on your countervailing/antidumping suit. I didn't make that clear.

Mr. VICARIO. I am sorry, I didn't understand.

Mr. FRENZEL. I just didn't know what I was looking at.

Mr. VICARIO. This highlights one of the problems we had, and one reason we pointed to the SEM case in our testimony. Our fundamental complaint and the reason we feel the legislation is necessary is that for this investigation to have been turned off at the preliminary stage basically denied the vintners, the grape growers and raisin growers their day in court to invoke the statute to try to seek redress.

A question was asked earlier on in the course of these hearings, what subsidies were involved in wine? Well, that is one of the questions we were attempting to try to find out, but we were short-circuited by the Commission decision. As a result of the ITC decision, the Department of Commerce did not conduct that investigation and what impact that has on imports to the United States. Again, this is one of the reasons why we are here advocating these changes to the statute, because we felt we were denied the day in court.

Mr. FRENZEL. Thank you very much.

Can I go back to Mr. Weidert for a minute? While production was increasing and imports increasing a little bit and consumption continuing to increase—although, as the recession began I guess the consumption of wine began to—that could have began to flatten—grape growers increased acreage by 56 percent in California in the 1970's. Again, this is according to our staff which apparently shows you were anticipating a wine boom which did not occur partly because of the recession. Is that reasonable? And partly because our exports declined on a strong dollar or other grounds?

Mr. WEIDERT. I think, Mr. Frenzel, it would be reasonable to draw the conclusion that you do. I think you have to go further into the figures, though. You have to consider that a lot of the acreage that went in was not the kind of grape that we are talking about that produces ordinary table wines, basically the Thompson and others. So you have to segregate these figures and look at them individually.

We don't have any problems in some other segments of the industry. Even today many of these new plantings that were mentioned earlier are other varieties other than those now in trouble and for which demand is probably going to continue to slacken to some degree.

Mr. FRENZEL. You did say 70 percent of your grape production went into wine?

Mr. WEIDERT. About 55 percent roughly.

Mr. FRENZEL. OK, 55 percent. So it is still the lion's share?

Mr. WEIDERT. Yes.

Mr. FRENZEL. I am just trying to get a better idea of an industry and how it came to be in difficulty. I don't want to put Government in the position of where it is by restrictions on imports subsidizing an industry that has chosen to grow at a very rapid rate. As you know, we do a little of that in the milk business and other liquids consumed by a lot of Americans, and we have literally undertaken to provide a milk subsidy for as much as anyone wants to produce.

In a way we are going the same with automobiles, only there it is price differential. I don't want to get us into that kind of arrangement with grapes. I merely ask you, was there an unusual expansion in the industry and are we in this act being asked to bail out that expansion with restrictions against imports, if we can't do what is in the bill?

Mr. WEIDERT. There was a rapid expansion in the 1970's. There is less of an expansion going on now. The bulk, a lot of that expansion was in varieties not affected by the current problem, Mr. Frenzel, and consequently you can set that portion aside. Some of it certainly was in the varieties that are now in trouble. However, the marketing conditions have been good until you look at the last 3 to 5 years when we had this meteoric displacement by imports. They now take 25 percent of our consumption.

Mr. FRENZEL. If you would excuse me, it isn't really very meteoric. You know, it goes up 6 or 7 million gallons a year.

Mr. WEIDERT. Yes.

Mr. FRENZEL. And in 1978—I may be talking about a different kind of wine than you.

Mr. WEIDERT. You are talking about wine, and I am talking about the ordinary table wine, which is the only segment we address.

Mr. FRENZEL. You say the percentage of imports penetration is different for your problem?

Mr. WEIDERT. Yes, dramatically different, and this is the only segment of the European market that we feel is subsidized.

Mr. FRENZEL. Can you provide us some of the figures with a distinction between what the ITC would use for the U.S. production and so on?

Mr. WEIDERT. Yes, be happy to.

[The information follows:]

AMERICAN GRAPE GROWERS ALLIANCE FOR FAIR TRADE,
Washington, DC, July 27, 1984.

Mr. JOHN J. SALMON,
Chief Counsel, Committee on Ways and Means,
House of Representatives, Washington, DC.

DEAR MR. SALMON: During the hearings conducted on Tuesday, July 24, 1984, members of the Subcommittee on Trade requested clarification of the statistical data regarding domestic table wine consumption, domestic shipments, domestic production and the volume of imports. Information pertaining to table wine shipments (withdrawals from bonded warehouses) and imports are available from the U.S. Bureau of the Census and the Bureau of Alcohol, Tobacco and Firearms. The official statistics, however, do not differentiate between table wine, which includes all wine containing by volume less than 14 percent alcohol, and "ordinary" table wine, a sub-

category of table wine, consisting of generic and semi-generic wines such as chablis or burgundy.

The term "ordinary" wine is not a term of art, but has been used to describe generic and semi-generic wines produced in the United States and non-controlled wines produced in Europe. Italy, France and other European producers maintain official statistics on their so-called "ordinary" wines; the United States does not. Estimates, however, have been prepared by authoritative private sources on the volume of ordinary table wine shipped by domestic wineries.

An examination of the relevant data demonstrates that the issue of over-production by the domestic industry is illusory. Domestic consumption and demand exceeds domestic production. Domestic wine production generally varies in relation to two factors: the volume of wine-type grapes produced in any given year and market demand. The latter factor is directly affected by production in foreign countries and the level of imports from those countries.

The downturn in the financial condition of the domestic industry is most vividly illustrated by the relative growth rates in domestic and imported table wine shipments. The statistics show that between 1980 and 1983, domestic shipments increased at a far slower rate than the increase in shipments of imported table wines, particularly ordinary table wines. The expansion in the apparent domestic consumption that occurred during this period was captured in large measure by the imports of European, predominantly French and Italian, wine.

We have attached excerpts from International Trade Commission's Publication No. 1502 that show that apparent U.S. consumption of all table wine increased by 21 million gallons between 1981 and 1983. Fifty-seven percent of the increase in consumption, or 12 million gallons, were accounted for by imported wine. The Commission's statistics for total domestic table wine shipments indicate a cumulative 3 percent increase between 1981 and 1983. The comparable statistics for imported wine is 12 percent.

Official French and Italian statistics and unofficial U.S. figures on shipments and consumption of "ordinary" table wine reveal that the domestic industry experienced a decline in shipments during 1983, and accordingly a decline in market share. Imports of French ordinary table wine increased by 92 percent from 3.9 to 7.5 million gallons between 1980 and 1982. Imports of Italian ordinary table wine increased by 18 percent from 42 to 49.4 million gallons between 1980 and 1982. Shipments by California wineries producing ordinary table wine declined during the same period (1981-1983) from 238 to 234 million gallons. California producers represent more than 90 percent of all ordinary table wine produced in the United States.

Sincerely,

JAMES M. LYONS, Counsel.

CERTAIN TABLE WINE FROM FRANCE AND ITALY

Determinations of the Commission in investigations Nos. 701-TA-210 and 211 (Preliminary) Under the Tariff Act of 1930, Together With the Information Obtained in the Investigations.

Determinations of the Commission in investigations Nos. 731-TA-167 and 168 (Preliminary) Under the Tariff Act of 1930, Together With the Information Obtained in the Investigations.

USITC publication 1502, March 1984.

TABLE 1.—TABLE WINE: TAXABLE WITHDRAWALS,¹ IMPORTS,² AND APPARENT CONSUMPTION, 1981-83

[In thousands of gallons]

Year	Taxable withdrawals	Imports	Apparent consumption
1981.....	287,183	98,208	385,391
1982.....	291,381	104,732	396,123
1983.....	^a 296,086	110,840	^a 406,926

¹ Includes taxable withdrawals of both bulk and bottled still wine containing not over 14 percent alcohol by volume (table wine).

² Table wine in containers not over 1 gallon.

^a Estimated.

Source: Compiled from official statistics of the Bureau of Alcohol, Tobacco, and Firearms, and official statistics of the U.S. Department of Commerce.

U.S. producers

Grape growers.—This major portion of U.S. grape growers are located in the States of California, Washington, and New York. In 1983, approximately 10,000 of the 16,000 grape growers in the United States were located in California, and in recent years, these growers have annually accounted for about 90 percent of total U.S. grape production. Historically, about 60 percent of California grape production has been crushed for wine (however, this figure dropped to 47 percent in 1983), with most of remaining production being utilized for raisins and fresh table grapes. The U.S. Department of Agriculture (USDA) reports that during 1981-83, California grapes supplied 96, 97, and 94 percent, respectively, of all grapes processed for wine in the United States.

Although some growers produce a particular grape (such as a wine varietal) for a specific use, others produce several different types of grapes for various uses (wine, raisins, or table stock). In addition, there are certain varieties (especially Thompson Seedless) that may be diverted to different uses (wine, raisins, or table stock), depending on demand or price considerations.

In 1983, total grape-bearing acreage in California was estimated to be 649,600 acres, representing a level 10 percent above the 593,865 bearing acres reported in 1979 (table 2). The total acreage in 1983 was primarily accounted for by wine grapes (47 percent) and raisin grapes (42 percent), with table varieties accounting for a much lower share (11 percent).

TABLE 14.—TABLE WINE: U.S. IMPORTS FROM FRANCE AND ITALY, AND APPARENT U.S. CONSUMPTION, 1981-83

Year	1,000 gallons, imports from—		Apparent consumption	Percent of ratio of imports from—		
	France	Italy		France to apparent consumption	Italy to apparent consumption	France and Italy to apparent consumption
1981	15,049	59,860	385,391	3.9	15.5	19.4
1982	18,042	63,023	396,123	4.6	15.9	20.5
1983	22,243	63,428	406,926	5.5	15.6	21.1

Source: Compiled from official data of the U.S. Department of Commerce and from official data of the BATF.

When imports of ordinary table wine, as compiled from responses to the Commission's questionnaires, are compared with apparent consumption, imports from Italy exhibit a slight declining trend, from * * * to * * * percent, and imports from France increased slightly, from * * * to * * * percent (table 15).

TABLE 15.—U.S. IMPORTS FROM FRANCE AND ITALY OF NONPREMIUM TABLE WINE AS REPORTED FROM QUESTIONNAIRE DATA AND APPARENT U.S. CONSUMPTION OF TABLE WINE, 1981-83

Year	1,000 gallons, imports from—		Apparent consumption	Percent of ratio of imports from—		
	France	Italy		France to apparent consumption	Italy to apparent consumption	France and Italy to apparent consumption
1981			385,391			
1982			396,123			
1983			406,926			

Source: Compiled from official data of the U.S. Department of Commerce and from data submitted in response to questionnaires of the U.S. International Trade Commission.

Data on imports of ordinary table wine from France and Italy and domestic shipments of nonpremium table wine are shown below (table 16). The domestic shipment data represent about 70 percent of U.S. shipments in 1983.

ESTIMATED SHIPMENTS OF U.S. PRODUCED GENERIC AND SEMIGENERIC TABLE WINES WITH F.O.B.'S
LESS THAN \$18 PER EQUIVALENT 9-LITER CASE, CALENDAR YEARS 1981, 1982, AND 1983

[In thousands of 9-liter cases]

Rank	Maker	1981	1982	1983	Estimated 1983 average FOB per 9- liter case
1	Gallo.....	37,200	38,400	40,500	\$8.00
2	Almaden.....	9,900	9,400	8,700	11.00
3	Wine Spectrum.....	6,500	8,400	7,900	10.50
4	Heublein Wines.....	5,800	6,200	6,500	11.25
5	Paul Masson.....	5,300	5,800	6,300	12.25
6	I.S.C. Wines.....	9,100	7,900	4,500	8.50
7	Guilford.....	4,300	3,400	3,400	8.00
8	Franzia.....	2,700	2,200	3,000	7.50
9	Sebastiani.....	2,900	2,600	2,200	12.00
10	Geyser Peak.....	2,060	2,100	1,700	10.75
11	Gibson.....	1,600	1,500	1,600	8.00
12	Lamont.....	1,350	1,140	1,400	8.00
13	Beringer.....	1,350	1,300	1,300	11.50
14	Taylor New York.....	1,700	1,400	1,300	14.25
15	Bronco Winery.....	1,100	1,200	1,100	8.00
16	C. Mondavi (Krug).....	1,500	1,100	1,050	11.25
17	Canandaigua.....	900	1,000	1,000	9.50
18	Giumarra.....	900	850	850	9.00
19	Delicato.....	700	1,000	800	8.00
20	Christian Brothers.....	400	430	370	14.00
21	Souverain.....	450	400	350	12.00
22	San Martin.....	100	120	320	11.75
23	Fetzer.....	200	250	300	15.00
24	Papagni.....	190	240	280	10.50
25	Wente.....	150	120	120	14.00
Total top 25 companies.....		98,350	98,350	96,840	9.39
All others.....		5,000	5,000	5,000	
Grand total.....		103,350	103,350	101,840	
Total rounded.....		103,400	103,400	101,800	9.40

Sources: California State Board of Equalization Wine Excise Tax Returns, Kansas Alcoholic Beverage Control Division, winery sources considered reliable, and estimates by Gomberg, Fredrikson & Associates.

Prepared By: Gomberg, Fredrikson & Associates, wine industry consultants. Originally prepared Feb. 15, 1984. Revised Feb. 23, 1984.

Mr. FRENZEL. So we could isolate the problem.

May I ask Mr. Silverman, your testimony indicated your only interest was in exports and you really didn't want to restrict any imports. My problem with that is that nowhere in the bill is there granted to the administration any negotiating authority so that there could be a reasonable expectation that it could negotiate anything from our trading partners.

Ambassador Brock sat here and said: Look, how can you go over there and expect me to get something with nothing? You have asked me to negotiate away barriers and tariffs, but I don't have anything to give.

How would you expect him—would we do it by threat of closing down imports?

Mr. SILVERMAN. I would point out two things. No. 1, in the bill itself, in the "Purposes" section, we do provide the President the authority and remedies to effect reduction of barriers to foreign

trade, although on a sectoral basis. Some argument could be made that Mr. Brock has negotiating authority but he has to seek the approval of the Congress before the agreement can be implemented. He doesn't like the sectoral approach.

More to the point, because of the introduction of our legislation, Mr. Brock was able to get the Japanese to reduce their duty from \$4.50 to \$3.50 per gallon. He was able to get the Europeans to finally do away with, or at least in a regulatory way do away with, the reference price, a system that penalized us with countervailing duties. They had previously waived that duty for 19 other countries but not for the United States.

Our bilateral accords with the Community miraculously, after a great deal of difficulty, were totally expedited. Many things have happened as a result of our bill, as a result of this legislation.

Mr. Frenzel, not to make a speech, but the thing that troubles the American wine industry is this: In 1940 and before, when this idea of comparative advantage in trade was really recognized, we were put at the bottom. There is no question about that. We made requests in all three subsequent multilateral trade negotiations, and we were always told to wait our turn. Nothing ever happened.

We ran huge trade deficits in the wine area; 2.6 percent of the U.S. trade deficit as recently as 1981, 2.1 in 1982. We are simply asking for an opportunity to export our product in international trade. And we feel we have been moderate. We think we have accommodated the concerns of those who feared retaliation. We feel we have solved, certainly in section 4, the GATT compatibility question.

I don't know what else to say. We have been extremely reasonable.

Mr. FRENZEL. Thank you. May I ask a final question? Is the EEC your principal target? Is that where you think your best market should be?

Mr. SILVERMAN. No, on the contrary. As I stated in my testimony, the way section 4 of this bill is worded, and given the fact the soybean interests have such great concern about the EC, because they are exporting 7 or 8 billion dollars' worth of soybeans, if the EC follow through on what they say they will do on reference prices, on implementing the wine accords, and so forth, this bill would not even apply to the EC. We have other markets that we are very interested in, but we want to keep the EEC's feet to the fire, so to speak, because most of the recently enacted advantages to American wine exports are in the nature of regulatory rather than statutory changes. They could be easily revoked.

We are not after the EEC; that is why the soybean people support this bill.

Mr. FRENZEL. Thank you very much.

I yield the balance of any time I may have.

Chairman GIBBONS. All right, thank you.

Let me ask you a question. Do the Japanese have a big wine industry?

Mr. SILVERMAN. They do not, Mr. Gibbons.

Chairman GIBBONS. And they have a \$4 or \$3 something tariff a gallon?

Mr. SILVERMAN. They have a duty that amounts to \$4.50. Mr. Brock has negotiated a reduction in that which has not yet been implemented—I am sure it will be—to \$3.50 on a gallon basis. The Japanese market has been regarded by the American wine people as one of the prime markets abroad.

Chairman GIBBONS. What other countries or potential customers have large tariff barriers?

Mr. SILVERMAN. Another very good market to which we already export probably half of our total wine exports, is Canada. However, we have major problems in Canada dealing with price markups and their system of listing wines. I was just in Canada over the last 2 weeks. Our feeling is that that would be a tremendously important growth market.

Chairman GIBBONS. They have big industry up there?

Mr. SILVERMAN. They have a wine industry. They export some to the United States. It has been growing. It is probably about 10 wineries, in that neighborhood.

Chairman GIBBONS. Do we have any subsidies on American wine or the growing of grapes?

Mr. SILVERMAN. This question, Mr. Gibbons, came up in Mr. Brock's testimony. I would be pleased to respond to it. We have the lowest wine duty of any significant wine producing country. Canada has a lower duty than we, but in regard to your question, they are not a significant wine producing country.

We do not subsidize our wines in any way. There have—

Chairman GIBBONS. Or the growing of grapes, either one?

Mr. SILVERMAN. Not that I am aware. John can better answer about growers.

Mr. WEIDERT. No, sir, there are no subsidies as they exist in other sectors of the agricultural community in the growing of grapes.

Chairman GIBBONS. Are there any State subsidies or anything like that?

Mr. WEIDERT. Not to my knowledge. The State of Washington provides a very small subsidy, and there may be others. Maybe "subsidies" is the wrong word, but they provide State funds I think for promotion of grapes in the State of Washington.

Mr. WEISS. Yes.

Mr. WEIDERT. There may be others who do that. But it is a very, very minimal amount of money in terms of the scope of the industry and subsidies as we normally think of it.

Chairman GIBBONS. Do we have Buy American Acts in States on wine?

Mr. SILVERMAN. We do not. This speaks to what you ask, too, part of the Japanese problem, in addition to that, is an excise tax problem. But in this country all imported wine pays the same excise tax.

I was just pointing out in addition to—another problem in Japan is the excise tax. In our country the excise tax is the same in the wine area both for imported wine and domestic wine. So these imported wines come in unfettered. What the Wine Institute is asking is to have the opportunity to sell our product abroad by breaking down the foreign tariff and nontariff barriers. We are not asking for anything else.

I was making this point in November. There was concern among the agricultural interests. We have done away with the reciprocity. We have done away with the GATT incompatibility question in section 4. Just give us the remedy we need. It can bring results around the world.

Chairman GIBBONS. Has the wine industry ever brought a section 301 case?

Mr. SILVERMAN. We have not. We have not—perhaps we should have. But the way the history of these 301 cases has developed as you know, they can take forever. I believe the flour case was 9 years.

Chairman GIBBONS. I know.

Mr. SILVERMAN. We have a time limit in section 4(c) that we hope would force action both in the consultations with tariffs and the 301 investigations with regard to nontariff trade barriers, by January 1, 1986. That is a way of holding their feet to the fire. You have to have guts in this thing. It may not be what everyone wants, but it is something.

Chairman GIBBONS. Yes.

OK, Mr. Frenzel.

Mr. FRENZEL. I would like to ask another question. I am confused by Mr. Silverman's testimony. We are looking for the big export markets, and you claim that the EC is not one that would be affected by this bill if they give effect to their pledges.

On the other hand, what other markets are we going to open up by the threat of imposing import restrictions? Are we—Canada doesn't ship us anything. Japan doesn't ship us any wine.

Who are we going to bully into giving us these concessions other than the EC?

Mr. SILVERMAN. Mr. Frenzel, I beg to differ with your use of terms. First of all, I don't think we are threatening import restrictions. I don't think the object of this is to bully.

The object of this is have our Government negotiate for us in a meaningful way. We think in Canada there is much to be done.

We think in Japan there is much more to be done. We think in Mexico—

Mr. FRENZEL. Can I interrupt for a second, and I would like to have you have all the time you want.

Mr. SILVERMAN. No, that is fine.

Mr. FRENZEL. We have talked about Canada and I talked about authority. We don't have anything we can give Canada. The only thing we can do under this bill with Canada is to threaten not to—impose restrictions on wine imports and they don't have any.

So what can we do under this bill with anybody but the EC, who you say is not affected?

Mr. SILVERMAN. I think Mr. Clawson wanted to speak to this question.

Mr. FRENZEL. I wanted to introduce Mr. Clawson as a consultant to this committee in a former incarnation, as a consultant with the Treasury Department and a relative of one of our dear friends.

Mr. CLAWSON. Thank you, Mr. Chairman, it is nice to be here. One of the difficulties in this hearing seems to be an understanding of the 301(b) section mentioned in the legislation as a remedy for the President to use in trade negotiations. In the case of Canada,

the administration, particularly the STR, has been telling the industry for 2 years it ought to file a 301 case against Canada, because Canada has not implemented from the last round of tariff negotiations its agreements as to what it would do in the wine area.

As I read 301, what we are looking for are nontariff barriers that are unfair, unreasonable, and unjustifiable and that burden U.S. commerce.

You don't necessarily have to threaten to cut off any wine coming in here. You take this action to identify which of those barriers a country may have that fit that criteria. If they have them, you go into the GATT, in a GATT procedure, to request that country to remove them, because they are unfair, unjustifiable and unreasonable.

It has nothing to do with our past agreements. It has to do with what they are doing as a policy or practice against our exports. In the case of Canada, we have a lot of statistics which we submitted last time, and will be happy to resubmit if necessary about the listing and markup practices which they have which discriminate against U.S. wines on an arbitrary and capricious, unfair and unreasonable basis.

So it is not a threat. The President, under section 301(b), doesn't have to restrict himself to wine, OK? As I understand the previous cases, he has great discretion. He doesn't have to do anything.

In the flour case, he has not done much of anything. What we are saying is he can impose tariffs, withdraw previously granted concessions or there are a range of things he can do that don't necessarily apply to wine.

When we are talking about this new tool or something a bit different, we are suggesting that in this area, it can be categorized as a bullying tactic. But it is not mere reciprocity and there has been a misconception through this testimony that somehow, it is wine for wine in these markets.

That is not the case at all. What we are talking about is a fair trade practice on the part of our trading partners. When Japan maintains a protective tariff they admitted they came from \$4.50 to \$3.50 per gallon without us paying them anything in return—they obviously recognized their tariff was too high for an industrialized country that doesn't have a domestic wine industry.

Mr. FRENZEL. But you are not noncompetitive in Japan. Everybody pays \$4.50. That didn't give you any more market share than France or Italy or anybody else.

Mr. CLAWSON. It does in the sense of what domestic industry they have. They import bulk wine from GSP countries, Spain, Bulgaria, and rebottle as Japanese. The bulk wines come in duty-free.

So the competition is not as fair as they would lead you to believe it is.

Chairman GIBBONS. They import wine duty-free, and rebottle it—

Mr. CLAWSON. Yes, and rebottle it and sell it as domestic wine.

So there is a wide range of practices that we are talking about that burden U.S. commerce. Yes, it may burden even French and German commerce, too, in the case of some other countries.

Chairman GIBBONS. Do they sell tobacco as a monopoly?

Mr. CLAWSON. I am not sure, I think some of it is and some not. I think it is both.

Mr. FRENZEL. If the President takes a nonwine solution and suspends or withdraws the trade agreement or imposes duties or other restrictions, then we are going to make ourselves open to retaliation, are we not?

Mr. CLAWSON. We would hope the President, in exercise of his discretion, would know which areas would not cause that. In the past, we were threatening wine and distilled spirits when the EC was taking its corn gluten actions.

We were prepared—we used wine as one of a number of commodities to threaten them with.

Mr. FRENZEL. We used it in tougher ways than that in 1962, of course.

Mr. CLAWSON. Sure. It is a situation, I am sorry to say, we are falling into, but even now, as we are talking about wine, there is a telecommunications bill being introduced in the Senate, that is a sector reciprocity type of legislation, and this Administration is seriously considering supporting that bill, I understand.

I don't know that that decision has been made, but we are falling into this type of solution, and I agree with you, Congressman, that it is unfortunate that we are getting into a sector-by-sector kind of approach.

But in many respects, we are being forced into that because of the actions of our trading partners, not because of our own doing.

Mr. FRENZEL. Thank you very much, Mr. Clawson. Thank you, Mr. Chairman.

Chairman GIBBONS. Thank you all very much.

[The following was subsequently received:]

THE CLAWSON CO.,
Potomac, MD, July 25, 1984.

Mr. JOHN J. SALMON,
Chief Counsel, Committee on Ways and Means,
House of Representatives, Washington, DC.

DEAR MR. SALMON: During the Hearings held by Mr. Gibbons, Chairman of the Subcommittee on Trade, Tuesday, July 24, 1984, members of the Subcommittee requested additional statistical information about the trade in wine in the United States. There were also several questions asked of a general nature about wine marketing, prices, production, etc. Rather than prepare a long brief, a recent issue of the trade magazine "Wines & Vines" contains both narrative and statistical information about the wine industry. Excerpts from the July issue are enclosed with the responses to the specific questions highlighted in yellow.

To further assist the Committee's review and consideration of the proposed legislation, H.R. 3795, a short explanation of terms with references to the enclosed materials is included. If any further explanation is needed or if more information is required, please contact Mr. Arthur Silverman at 347-3101.

Sincerely,

JAMES B. CLAWSON.

Enclosures.

In response to those questions from the members of the Subcommittee concerning the U.S. wine industry:

One of the confusing areas of the wine industry is the manner in which statistics are collected and reported. The production or growth of wine grapes is reported in tons crushed. This varies from year to year more as a result of climate and natural conditions than the efforts of the grower.

Wine production is referred to as "removals from fermenters" and is reported in gallons. Sales, as we would know it, is reported as "wine entering distribution channels" and is reported in gallons. Consumption is reported as gallons per capita.

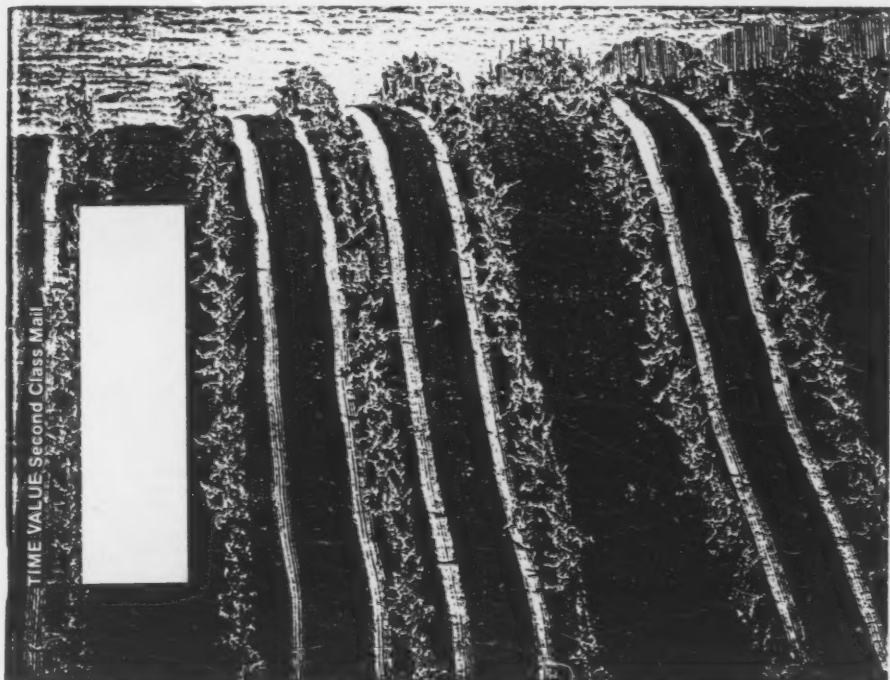
The statement was made in the hearings that wine production was less than "consumption". The better comparison would be wine removals with wine entering distribution channels. In 1983, wine entering distribution channels from U.S. producers was 395,911,000 gallons. Foreign imports were 131,006,000 gallons for a total of 526,917,000 gallons. (see page 31 of Wines & Vines)

Wine removed from fermenters was 424,820,000 gallons which was 30,000,000 gallons more than wine entering distribution channels. (see page 39 of Wine & Vines) Even with production being lower than the all-time high of 1982, with an inventory from previous years' production in excess of 666,000,000 gallons (more than one years supply for the entire wine market), the statement that "the U.S. industry did not produce enough to meet demand" is incorrect. (See page 37 of Wines & Vines.)

Forty-first Statistical Issue

WINES & VINES®

The Authoritative Voice of the Grape and Wine Industry
July, 1984



Joint Marketing Order is contested

Highlights from the 35th Annual A.S.E.V Open Meeting

The 41st Annual Statistical Survey

Introduction

The 41st Annual Statistical Issue reflects new data and the deletion of some tables because the figures are no longer available.

New charts and tables this year include: U.S. imports of Italian wines by denomination 1975, 1980-1983; Imports of French wines and spirits into the U.S., 1983; Growth rate of California table wine shipments to all markets, 1974-1983; California wine inventory-shipment ratio 1974-1983; and Standard wine removed from fermenters, by states, crop years 1979 through 1983.

The material is divided into eight sections as follows: 1. An Overview of 1983 for Grapes and Wine; 2. The U.S. Wine Market; 3. California Wine Shipments; 4. Wine Production and Inventory; 5. Grape Production and Utilization; 6. U.S. Wine Ex-

ports; 7. World Wine Production and Per Capita Consumption; and 8. The 100 Largest Wineries in the U.S.

The material (with the exception of *Wines & Vines*' exclusive list of the 100 largest U.S. wineries) was prepared with the help of copyrighted reports by the Wine Institute, a California trade association, and by the National Association of Beverage Importers. *Wines & Vines* acknowledges their cooperation and reminds readers that tables and charts may not be reproduced without permission.

Statistical reports are compiled by the Wine Institute from many sources, including its own surveys of California wineries and distilled spirits plants. Wade Stevenson, Wine Institute statistician/research analyst, supervised the compilation

of data and provided the accompanying editorial.

Where applicable, these sources are shown in the tables. In most instances, the data were not reported in the format in which they appear here. *Wines & Vines* takes responsibility for this organization and presentation and welcomes suggestions on how the data may be better presented.

Data for 10 years are shown to provide a background for analyzing the most recent figures, 1983 in most cases. The 10-year figures show current trends and are helpful in making short-term projections.

Data for California are given prominence because of the relative contribution that the Vineyard State makes to the total national industry and also because more statistics are available for the California industry.

Table of contents

SECTION 1—	Pg. 23-24—An Overview of 1983 for Grapes and Wine U.S. wine market: 1974-1983. Market shares: 1974-1983
SECTION 2—	Pg. 25-33—The U.S. Wine Market Foreign table wine shipments into the U.S., by price categories and major countries, Jan.-Dec. 1983. Wine entering distribution channels in the U.S. by states, 1979 to 1983. Producer and consumer price indexes for wine and other selected items, calendar year averages 1974-1983. Per capita wine consumption in the U.S. by states, 1972, 1982 and 1983. Wine entering distribution channels in the U.S. by areas where produced and by types of wine, 1974-1983. Foreign wine shipments, by major countries of origin 1974 to 1983. Adult per capita consumption of specified beverages in the U.S. 1979-1983. U.S. imports of Italian wines by denomination 1975, 1980-1983. Commercially produced wine entering distribution channels in the U.S., by states 1983. Foreign wine shipments into the U.S., by types of wine and countries of origin 1983. Table wine imports 1974-1983. Imports of French wines and spirits into the U.S. 1983.
SECTION 3—	Pg. 34-38—California Wine Shipments Estimated shipments of California wine to all markets by types of wine 1976-1983. California wine shipments, by wine types, 1974-1983. Estimated shipments of bottled California grape table wine to U.S. markets, by color categories, 1974-1983. Estimated shipments of California grape table wine to U.S. markets, by color categories, 1974 to 1983. Growth rate of California table wine shipments to all markets 1974-1983
SECTION 4—	Pg. 37-39—Wine Production and Inventory Wine inventories in California, other states and the U.S.

on Dec. 31, by types of wine, 1974 to 1983. Bonded winery premises, by states 1974-1983. Production of vermouth, other special natural and sparkling wines, by states, 1974-1983. Standard wine removed from fermenters, by states, crop years 1979 through 1983. U.S. sparkling wine 1974-1983. California wine inventory-shipment ratio 1974-1983

SECTION 5—	Pg. 40-46—Grape Production and Utilization United States grapes: production, quantity crushed, average grower price and farm value, by states, 1982 and 1983. United States grape production and commercial crush, by states, 1982 and 1983. California grapes: production, bearing acreage and yield per acre by varietal classes, crop years 1974 to 1983. California grapes: production, utilization and grower returns 1974 to 1983. Commercial crush of California grapes by districts where grown and varieties, 1983. California raisin shipments, 1973 to 1982 crop year. California crush 1974-1983. California gross wine production, marketings & inventories 1974-1983
SECTION 6—	Pg. 48-50—United States Wine Exports Exports of wine from the United States, by countries of destination, 1979-1983. Exports of United States produced wine by countries of destination, 1982 and 1983. U.S. balance of trade for wine and for all merchandise, 1979-1983
SECTION 7—	Pg. 50-51—World Wine Production and Per Capita Consumption Wine production in the world by selected countries, 1977-1982. Per capita consumption of wine, by countries, for selected years
SECTION 8—	Pg. 52—The 100 Largest Wineries in the U.S.

Lackluster '83 wine sales

Wine sales in the U.S. increased slowly in 1983, marking a second straight year of below-average growth. U.S.-produced wine shipments were up 1.0%, while foreign shipments, with a gain of 7.3%, fared considerably better. The 2.5% rate of growth for all wine sales was well below the 4.3% average annual increase for the decade ending in 1983. U.S. per capita consumption was up 1.4%, from 2.22 gallons in 1982 to 2.25 gallons in 1983.

Table wine, the mainstay of all wine shipped to the U.S. market, had lackluster sales performances in both 1982 and 1983. This category—the driving engine behind the growth in wine consumption over the past decade—registered gains over the previous year of 2.7% in 1982 and 1.3% in 1983. Those percentage gains hardly measure up to the average annual growth rate of 8.1% for table wine sales during the period from 1973 to 1983. As a result of sluggish growth, table wine's U.S. market share fell from 77.3% of all wine sold in the U.S. in 1982 to 76.4% in 1983.

The modest table wine sales increases in 1983 were solely the result of market penetration by foreign wines, as U.S.-produced table wine shipments dropped 0.4%. U.S.-produced table wine market share dropped 1.3 points, from 73.6% in 1982 to 72.3% in 1983. Last year marked the first time since 1957 that U.S.-produced table wine shipments to the U.S. market decreased from the previous year's sales.

Of the other traditional wine categories sold in the U.S., only sparkling wine and the over 14% other special natural (OSN) category were up last year in relation to 1982 sales. Increases in sparkling wine shipments were particularly impressive, up 15.9%. Both U.S.-produced sparkling wine

and imports participated in the growth, with respective gains of 11.0% and 33.0%. The average annual growth rate for sparkling wine sales in the U.S. for the 10-year period ending in 1983 was 7.6%.

Wine categories which have been trending down in recent years continued their descent in 1983. These include aperitif/dessert, vermouth, and low-alcohol OSN.

Prices for wine do not appear to offer an explanation for depressed sales

A new category burst on the scene in 1983. Generally known as *wine coolers*, the category consists of flavored wines of less than 7% (defined by Bureau of Alcohol, Tobacco, and Firearms as "other wine"). After spotty sales in 1982, coolers made their presence felt in 1983 with shipments of at least 6.2 million gallons (based on incomplete data). A number of well-known California wineries are either test-marketing or marketing coolers at present. In a few years it should become apparent whether there is a substantial and lasting market for this kind of beverage.

Prices for wine do not appear to offer an explanation for 1983's depressed sales situation. From 1982 to 1983, the consumer price index (CPI) calendar year average for table and aperitif/dessert wines actually fell a fraction of a point. During the same period, the CPI calendar year average for all items was up 3.0%. Stories circulated throughout 1983 about heavy discounting by many

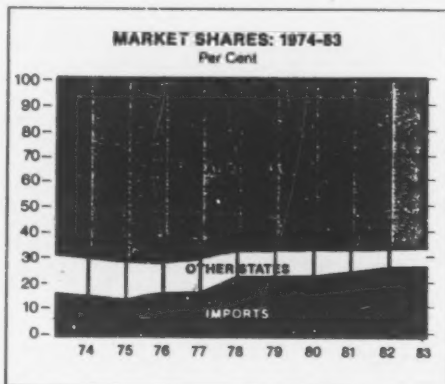
large volume California wineries.

It is likely that the continued strength of the dollar contributed in part to the success of certain imported wine items. Foreign wine's U.S. market share for total wine sales increased from 23.8% in 1982 to 24.9% in 1983. Over the same time period, California-produced wine's share dropped from 68.0% to 67.2%, while "other states" shipped 8.2% of all wine sold in the U.S. in 1982 and only 8.0% in 1983. In the key table wine and sparkling wine categories, import market shares increased in 1983 from the previous year as follows: table wine, from 26.5% to 27.7%; sparkling wine, from 22.3% to 25.6%.

One need only go back 10 years to get perspective on the U.S. market penetration achieved by imports. In 1974, "other states" wine shipments and foreign wine sales had identical 14.7% shares of the total U.S. wine market; California held the lion's share, selling 70.6% of all wine consumed in the U.S. in 1974. From 1974 to 1983, wine from states other than California dropped 6.8 market share points, California-produced wine lost 3.4 market share points, and foreign wine increased its share of the U.S. market by 10.2 percentage points.

Last year Italy again shipped more wine to the U.S. market than any other nation. In 1983, Italian wines made up 54.6% of all foreign wines consumed in the U.S. While still dominant, Italy's wine sales in the U.S., as a percentage of total import shipments, have decreased in each of the last three years. Italian shipments were 57.8% of all imports in 1981 and 57.4% in 1982. On the other hand, French wines went from a 15.3% slice of the import pie in 1981 to a 19.4% share in 1983.

Of the five leading wine exporters to the



U.S., only Portugal shipped less wine in 1983 than in 1982. Italy's shipments increased a modest 2.1%, while the respective increases for France, West Germany, and Spain were 34.6%, 14.4%, and 5.3%. In 1983 these four countries, along with Portugal, exported 95.3% of all foreign wine shipped to the U.S. Table wine imports, which accounted for 85% of total foreign wine shipments to the U.S., passed the 110 million gallon mark in 1983. Last year Italy, France, and West Germany were again the top three table wine exporters to the U.S., with respective shipments of 63.4 million gallons, 22.3 million gallons, and 15.1 million gallons.

From 1971 to 1981, U.S. wine exports came of age. During that period, export shipments increased from 376,000 gallons to 10.6 million gallons; however, U.S. commercial wine exports were disappointing in both 1982 and 1983, decreasing 16.4% in 1983 to 7.6 million gallons. As long as the dollar remains strong and the debt burden of other nations heavy, the difficulties faced by U.S. wine exporters likely will continue.

In 1983, Canada and the United Kingdom were once again the only countries to import more than a million gallons of wine from the U.S. Canada imported 3.6 million gallons, the UK 1.2 million gallons.

The 1983 U.S. grape crop of 5,281,300 tons was about normal. California production was 4,895,000 tons, 88.9% of the total. All the other large producing states had

good crops. Harvests in Washington and New York exceeded 1982 production by 57,100 tons and 34,000 tons, respectively. For all states other than California, 586,200 tons of grapes were produced in 1983, an increase of 108,000 tons over 1982 production.

Partially because California-produced and U.S.-produced wine sales grew at an uncharacteristically slow pace for the second year in a row, wine inventories from the huge '82 crush were not depleted quickly enough last year to create a good market for the '83 crop. Large wine inventories held in California in fall, 1983, depressed the market for grapes for crushing. This condition caused growers of raisin variety grapes to divert much more of their crop than usual to raisin production. Because raisin sales over the past year have not increased to any great degree, the raisin industry is now faced with large inventories created by last year's peace-time record production.

The 1983 California crush of 2,300,680 tons was smallest since the 2.21 million ton crush of 1976, and the result was year-end wine inventories in 1983 that were only slightly higher than would be expected under average conditions. However, because of the large inventories held during the 1983 crushing season, the average price per ton received by growers for grapes for crushing in 1983 was lower than the depressed average price they received in 1982. In 1982 the average price per ton

(revised data) was \$194.07; in 1983, \$190.98. Grower returns for fresh grapes also were lower, and it appears that a price-cutting strategy in the raisin industry will result in a much lower 1983 grower price per ton for those grapes.

The 1983 California crush of white wine variety grapes finally surpassed the crush of red varieties. Of last year's total wine variety crush, 54.7% were white variety grapes and 45.3% were reds. The trend toward white wine cultivars also is evident in California bottled table wine shipments to U.S. markets. 1983 marked the third consecutive year of decline in shipments of red and rose bottled California grape table wine. Last year, white wine accounted for 65.3% of all such shipments.

Bearing acreage of California grapes were up 24,537 acres in 1983, to a total of 644,513 acres for all varieties. This means that for the second year in a row bearing acreage has increased by more than 20,000 acres. There were 101,566 non-bearing acres as of 1983, composed of 20,496 acres of raisin varieties, 17,967 acres of table varieties, 56,166 acres of white wine varieties, and 6,937 acres of red wine varieties. Because of the size of the non-bearing acreage, it is likely that bearing acreage will continue to increase through 1985. If bearing acreage does increase, an above average yield in any of the next few years could well result in a California grape crop surpassing the record 6.1 million ton crop of 1982. □

CORBETT CANYON

VINEYARDS

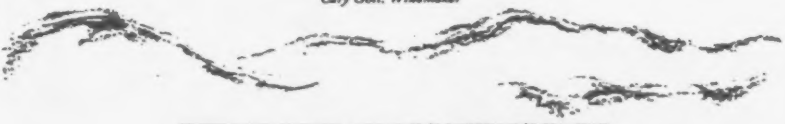
ANNOUNCES

OUR FIRST VINTAGE

1983 Select Varietal Wines and

Our new 1 Liter Coastal Classic Table Wines

Cary Gott, Winemaker



CORBETT CANYON VINEYARDS, IN THE HEART OF CALIFORNIA'S CENTRAL COAST
EDNA VALLEY, SAN LUIS OBISPO, CALIFORNIA
PLEASE CALL 805 • 544 • 5800

1983 sales gain falls below 20-year average

In 1983, 526.9 million gallons of wine were sold in the U.S. The gain of 2.5% over 1982 sales was significantly lower than the average annual 5.6% increase for the 20-year period ending in 1983. During this period, the amount of wine consumed in the U.S. grew from 175.9 million gallons to last year's 526.9 millions. The slowdown in wine shipments in 1983 followed on the heels of a depressed 1982 U.S. wine market. For the first time since the early 1970s, there were back-to-back years with wine sales growth rates of less than 5%. Preliminary wine shipment data for the first quarter of 1984 show a continuing pattern of slack sales in the U.S. market.

Among wine types and origins, there were some trends which continued into 1983 and some notable changes from past patterns. White table wine continued to improve its position in the U.S. market, but the share of this market held by all table wine failed to increase for the first time since 1972. Sparkling wine stayed on an upward trend last year, increasing 15.9% when compared to 1982. With 8.2% of the 1983 market, sparkling wine became the second leading wine type sold in the U.S., having passed the once dominant aperitif/dessert category. A new type of low alcohol beverage defined as "other wine" (wine coolers) found a receptive market in 1983 and had sales of at least 6.2 million gallons (based on incomplete data). As has been the case in recent years, foreign wines in 1983 did relatively better than products produced in either California or the U.S.

In 1983, shipments of table wine to the U.S. passed the 400 million gallon mark for

the first time; however, because table wine grew at a slower rate than all wine shipments, table wine's share of the market fell from 77.3% in 1982 to 76.4% in 1983. The last time table wine's market share dropped from a previous year was in 1972, when table wine accounted for 50.5% of total wine shipments. Imported table wine sales in 1983 were 111.4 million gallons, up 6.0%; foreign table wine's market share (table wine market) was up 1.2 points from 1982 to 1983, increasing from 26.5% to 27.7%. For the second consecutive year, growth in California-produced table wine shipments did not exceed that for imported table wines on a gallonage basis, and California-produced table wine's share of the U.S. table wine market fell to 67.9% in 1983 from 68.8% in 1982. Last year, table wine produced in states other than California made up only 4.4% of all such wine sold in the U.S. "Other states" have consistently lost market share in recent years.

For the third year in a row, French table wine imports surged ahead. Their yearly growth rates for 1981, 1982, and 1983 were 32.2%, 19.9% and 23.4%, respectively. There has been a large influx of competitively-priced non-appellation wines from France in the last few years. In 1983, France shipped 22.3 million gallons of table wine to the U.S., and in each quarter growth was formidable. Italy remains the leader in sales of such wine. However, Italian table wine shipments in 1983 of 63.4 million gallons were only 0.7% above such shipments in 1982. Also, Italian table wine sales last year were strong only in the first quarter, and for the first quarter of 1984, Italy's ship-

PRODUCER AND CONSUMER PRICE INDEXES FOR WINE AND OTHER SELECTED ITEMS, CALENDAR YEAR AVERAGES 1974 to 1983

Year	Producer					Consumer ¹			
	Table Wine ²	Dessert Wine ³	Table & Dessert Wines	Alcohol Beverages	All Items 1987 = 100	Table & Dessert Wines ⁴	Alcohol Beverages	Food	All Items
1974	155.6	142.4	147.4	120.7	161.1	147.3	131.8	161.7	147.7
1975	164.1	151.5	156.3	134.7	174.9	154.0	142.1	175.4	161.2
1976	161.6	150.5	154.6	138.1	183.0	157.4	146.8	180.8	170.5
1977	159.1	151.0	153.0	139.6	194.2	161.9	150.9	192.2	181.5
1978	174.5	167.1	168.3	148.2	209.3	179.9	160.1	211.2	195.3
1979	191.4	192.8	187.7 ⁵	161.4	235.6	197.5	172.8	234.7	217.7
1980	212.8	216.0	209.1 ⁶	175.8	268.8	215.4	187.8	255.3	247.0
1981	237.9	247.2	235.6 ⁶	189.0	293.1	234.9	201.6	274.9	272.3
1982	257.9	"	254.5 ⁶	197.8	299.3	243.9	210.6	285.8	286.6
1983	262.2	"	259.0 ⁶	205.1	303.2	243.8	219.1	291.8	297.4

¹Consumer Price Indexes for Urban Wage Earners and Clerical Workers; revised beginning 1978 and linked to unrevisted CPI in December 1977 which means both "revised" and "unrevised" indexes are the same as of that month. Not seasonally adjusted. ²Red table wine, in WTs, f.o.b. winery. ³Dessert wine, in WTs, f.o.b. winery. ⁴All types of wine beginning 1976. ⁵Because of statistical methodology it is possible for a composite index number to be lower or higher than its components. ⁶Not available.

Sources: Economic Research Department, Wine Institute and Bureau of Labor Statistics; U.S. Department of Labor.

JULY, 1984

25

ments to the U.S. were down a staggering 12.8% from the same period a year ago. French shipments for the first quarter of 1984 were up 36%. In the near term, it appears that France will be the driving force behind the growth in foreign table wines.

While France has increased its exports of competitively-priced, non-appellation wines to the U.S., Italy still dominates this market segment. Bureau of the Census reports that for calendar year 1983 74.3% of all imported Italian table wine was valued at not over \$4 per gallon, F.A.S. port of exportation basis, compared to only 22.0% for that from France. Lambrusco continues as the volume leader of imported Italian table wine, but its popularity may have peaked as it slipped to 32% of such sales in 1983. Other Italian non-DOC wines which continue to gain in sales include wines from Emilia-Romagna (30.4% share) and Piedmont (9.4% share).

U.S. imports of table wines from West Germany were up 14.1% in 1983. It may well be that two successive large harvests in West Germany provided the impetus for a renewed marketing effort aimed at the U.S. wine-consumer. 1983 U.S. table wine imports from Spain and Portugal, the other members of the leading five sources of U.S. imports of such wine, declined 11.2% and 9.8% respectively. All other countries shipped 4.7 million gallons of table wine to the U.S. in 1983. Important countries other than the top five shipping such wine to the U.S., and their 1983 gallonage totals include: Yugoslavia, 780,000 gallons; Greece,

577,000 gallons; Bulgaria, 375,000 gallons; Chile, 346,000 gallons; and Romania, 303,000 gallons.

Last year, U.S. imports of sparkling wine increased 33%, a remarkable growth rate in light of respective increases in both 1981 and 1982 of 46.9% and 17.9%. The growth of foreign sparkling wine sales was so strong that in 1983 California lost 3.3 percentage points of market share while posting a growth in sparkling wine sales of 10%. "Other states" also had a banner year, increasing their sparkling wine shipments by

16.7% last year.

Italy, France, and Spain are the three leading nations for exports of sparkling wine to the U.S. All three countries had plus-20% growth rates in 1983. Spain's increase in sparkling shipments to the U.S. market was 53.7%, its lowest growth of the last three years. The Spanish sparkling wine phenomenon has been fueled both by the generally favorable market for sparkling products and the low prices charged for the Spanish imports.

Overall, from 1981 to 1983, both Italy

FOREIGN TABLE WINE SHIPMENTS INTO THE U.S.
BY PRICE CATEGORIES AND MAJOR COUNTRIES*
JANUARY THROUGH DECEMBER 1983

	1,000 Gallons		Percent Change	Percent of 1983 Total	Percent ¹ Not Over \$4 per Gallon		Percent ¹ Over \$4 per Gallon	
	1983	1982			1983	1982	1983	1982
Italy	63,441	63,024	0.7	57.0	74.3	74.3	25.7	25.7
France	22,265	18,050	23.4	20.0	22.0	16.3	78.0	83.7
W. Germany	15,063	13,196	14.1	13.5	15.8	3.6	84.2	96.4
Portugal	4,558	5,053	-9.8	4.1	48.9	17.4	51.1	82.6
Spain	1,333	1,501	-11.2	1.2	33.1	34.9	66.9	85.1
Others	4,732	4,267	10.9	4.2	47.6	46.4	52.4	53.6
Total	111,382	105,093	6.0	100.0	53.1	51.1	46.9	48.9

*Imports for consumption. Price categories are based on customs import value which generally represents the value of merchandise at port of exportation. ¹Sum of components may not equal total as a result of rounding. ²Bottled grape still wine not over 14% alcohol, not over \$4.00 per gallon (TSUSA 1673005, 1673015 & 1673025); and bulk grape wine not over 14% alcohol (TSUSA 1673200). ³Bottled grape still wine not over 14% alcohol, over \$4.00 per gallon (TSUSA numbers 1673030, 1673045 & 1673060); and other fermented alcoholic beverages from Japan believed to be unfavored fruit wine not over 14% alcohol (TSUSA 1675000).

Sources: Economic Research Department, Wine Institute; Bureau of the Census, U.S. Department of Commerce.

PER CAPITA WINE CONSUMPTION IN THE U.S. BY STATES*
1972, 1982 and 1983¹

State	1972	1982	1983 ¹	Change 1983 from 1982		1983 Rank	State	1972	1982	1983 ¹	Change 1983 from 1982		1983 Rank
				Gallons	Percent						Gallons	Percent	
AL	0.45	1.06	1.03	- 2.8	41	MT	0.82	1.94	1.90	- 2.1	22		
AK	1.95	3.21	3.21	-	8	NB	0.90	1.25	1.22	- 2.4	37		
AZ	1.72	2.43	2.63	+ 8.2	16	NV	3.70	4.79	4.92	+ 2.7	3		
AR	0.69	0.75	0.77	+ 2.7	47	NH	1.92	3.62	3.51	- 3.0	4		
CA	3.45	4.45	4.63	+ 4.0	3	NJ	2.15	3.28	3.30	+ 0.6	5		
CO	1.89	2.80	2.78	- 0.7	14	NM	1.70	2.01	1.88	- 6.5	23		
CT	1.78	2.91	3.13	+ 7.6	11	NY	2.29	3.01	3.00	- 0.3	13		
DE	1.32	2.10	2.19	+ 4.3	18	NC	1.09	1.32	1.35	+ 2.3	34		
DC	4.78	6.84	6.95	+ 1.6	1	ND	0.82	1.08	1.04	- 1.9	40		
FL	1.75	2.3	2.54	- 0.4	17	OH	1.02	1.38	1.33	- 2.2	35		
GA	0.79	1.29	1.37	+ 6.2	33	OK	0.78	0.98	0.96	- 2.0	43		
HI	1.34	2.89	2.87	- 7.8	15	OR	2.44	3.21	3.23	+ 0.6	7		
ID	1.38	1.75	1.76	+ 0.6	25	PA	1.13	1.45	1.39	- 4.1	31		
IL	1.60	2.19	2.11	- 3.7	20	RI	2.22	3.53	3.21	- 9.1	9		
IN	0.63	1.12	1.14	+ 1.8	39	SC	1.01	1.22	1.22	-	37		
IA	0.41	0.79	0.77	- 2.5	47	SD	0.83	1.07	1.02	- 4.7	42		
KS	0.59	0.81	0.78	- 3.7	45	TN	0.58	0.85	0.87	+ 2.4	44		
KY	0.5 ²	0.7 ²	0.74	+ 4.2	49	TX	1.02	1.55	1.63	+ 5.2	30		
LA	1.5	1.74	1.71	- 1.7	26	UT	0.72	0.78	0.74	- 5.1	49		
ME	1.22	1.87	1.86	- 0.5	24	VT	2.27	3.09	3.08	- 0.3	12		
MD	1.51	2.20	2.15	- 2.3	19	VA	1.10	1.67	1.67	-	28		
MA	1.68	3.17	3.17	-	10	WA	2.24	3.20	3.30	+ 3.1	5		
MI	1.39	1.71	1.70	- 0.6	27	WV	0.51	0.85	0.78	- 8.2	45		
MN	1.01	1.67	1.65	- 1.2	29	WI	1.34	1.86	2.06	+10.8	21		
MS	0.57	0.64	0.63	- 1.6	51	WY	0.98	1.37	1.28	- 6.6	36		
MO	0.99	1.32	1.38	+ 4.5	32	US total	1.62	2.22	2.25	+ 1.4			

*Based on resident population as of July 1, except for 1980 which is April 1, includes military services personnel stationed in the U.S. but excludes U.S. civilians and military services personnel living aboard. ¹Preliminary.

Sources: Economic Research Department, Wine Institute; State beverage and tax agencies; Bureau of Alcohol, Tobacco and Firearms and Bureau of the Census.

WINE ENTERING DISTRIBUTION CHANNELS IN THE U.S. BY STATES

State	1979 to 1983 ¹					Rank
	1979	1980	1981	1982	1983	
	1,000 Gallons					
AL	2,810	3,878	4,396	4,184	4,067	28
AK	1,070	1,172	1,348	1,425	1,537	45
AZ	5,682	5,920	7,127	7,014	7,780	20
AR	1,435	1,588	1,880	1,730	1,794	40
CA	97,970	104,471	108,791	109,921	116,465	1
CO	7,913	8,503	7,867	8,590	8,730	16
CT	7,759	8,419	8,696	9,106	9,825	12
DE	947	1,077	1,202	1,262	1,328	47
DC	4,095	4,141	4,376	4,281	4,329	26
FL	20,446	23,127	25,077	26,642	27,077	3
GA	5,602	6,545	6,882	7,262	7,876	19
HI	2,427	2,705	2,628	2,879	2,727	34
ID	1,487	1,677	1,837	1,705	1,736	41
IL	22,285	23,709	24,910	25,062	24,244	6
IN	5,144	5,744	5,018	6,132	6,234	24
IA	2,087	2,342	2,400	2,302	2,223	36
KS	1,738	1,656	1,810	1,954	1,898	39
KY	1,982	2,222	2,327	2,608	2,751	33
LA	6,115	6,455	6,979	7,637	7,592	21
ME	1,913	1,983	2,127	2,123	2,136	37
MD	8,068	8,581	9,294	9,394	9,255	15
MA	15,215	16,378	17,919	18,210	18,260	7
MI	15,173	15,778	16,326	15,651	15,417	9
MN	5,900	6,389	6,822	6,912	6,823	23
MS	1,431	1,538	1,586	1,649	1,636	42
MO	5,920	6,190	6,546	6,533	6,846	22
MT	2,000	1,673	1,574	1,560	1,555	44
NB	1,735	1,852	1,960	1,983	1,948	38
NV	3,741	4,005	4,204	4,198	4,385	25
NH	3,363	3,431	3,440	3,434	3,365	30
NJ	19,586	21,644	23,484	24,383	24,656	5
NM	2,211	2,535	2,485	2,751	2,631	35
NY	48,167	50,584	52,833	52,845	53,077	2
NC	7,078	7,312	7,619	7,924	8,188	18
ND	641	683	709	714	706	50
OH	12,807	14,147	14,434	14,641	14,281	10
OK	2,624	2,925	2,945	3,172	3,166	31
OR	7,350	8,170	8,187	8,553	8,605	17
PA	16,127	16,887	16,948	17,170	16,559	8
RI	2,910	3,194	3,176	3,363	3,069	32
SC	3,019	3,358	3,661	3,931	3,964	29
SD	722	763	790	743	717	49
TN	3,046	3,379	3,658	3,950	4,069	27
TX	17,050	18,785	21,444	23,836	25,667	4
UT	1,072	1,147	1,186	1,231	1,192	48
VT	1,402	1,506	1,578	1,605	1,615	43
VA	8,018	8,346	8,994	9,179	9,275	14
WA	11,547	13,072	13,992	13,697	14,210	11
WV	1,062	1,097	1,630	1,672	1,535	46
WI	8,147	8,888	9,204	8,841	9,802	13
WY	599	674	695	699	659	51
States						
Total	438,636	472,500	487,911	506,246	519,499	
U.S.						
Total ²	444,375	479,344	506,684	514,045	526,917	

¹Preliminary. ²Shipments of Federal tax-paid wine to Hawaii by California licensees and imports into Hawaii from foreign countries. ³U.S. Total³ comprises taxable withdrawals of U.S. produced wine and imports for consumption. It includes certain wines that may not be included in the individual state figures, such as wines used in producing rectified beverages other than wine, sacramental wines, wine sold on military posts, and wine used in prepared foods, medicinal products and miscellaneous beverages.

Sources: Economic Research Department, Wine Institute, State beverage and tax agencies, Bureau of Alcohol, Tobacco and Firearms, and Bureau of the Census, U.S. Department of Commerce.

Don't miss WINES & VINES' September Marketing Issue
For advertising info call Caron Cole, (415) 453-9700

and Spain increased their sparkling wine shipments to the U.S. by 1.6 million gallons, while France increased its sales 666,000 gallons. The three countries together shipped 10.6 million gallons to the U.S. in 1983, or 95.5% of all sparkling wine imports to that market.

Aperitif/dessert wines, which in the mid-1980s made up well over 40% of total U.S. wine consumption, declined again in 1983. These wines were down 5.4% to 38.0 million gallons. Their 1983 share of the total U.S. market was 7.2%. Over the past five years, foreign shipments of aperitif/dessert wines have remained remarkably stable, averaging 3.3 million gallons per year. U.S.-produced wine sales in this category have steadily declined during the same period, falling from 44.1 million gallons in 1979 to 34.6 million gallons in 1983.

In 1983, vermouth sales continued their downward pattern, declining 2.1% to 7.5 million gallons. U.S.-produced vermouth, with California as the main producer, comprises about two-thirds of the U.S. market, while imports—mainly from Italy—account for the other third.

The declining sales trend for the low-alcohol other special natural wines con-

ADULT PER CAPITA CONSUMPTION OF SPECIFIED BEVERAGES IN THE UNITED STATES 1979-1983¹

			All Wine Not Over 14% Alcohol ³	All Wine Over 14 Percent Alcohol ³	Distilled Spirits ⁴	Beer ⁵	Coffee ⁶	Tea ⁷
Year	All Wine	Table Wine ²						
			Wine Gallons				Pounds	
1979	3.01	2.20	2.60	.45	3.04	36.2	17.2	1.07
1980	3.20	2.35	2.78	.42	3.00	36.8	18.7	1.21
1981	3.30	2.53	2.90	0.39	2.93	36.9	15.4	1.20
1982	3.29	2.54	2.91	0.37	2.80	36.2	15.0	1.19
1983	3.31	2.53	2.96	0.36	2.71	?	?	?
Index Numbers (1979 = 100)								
1979	100.0	103.8	103.8	84.9	99.0	102.0	106.2	87.0
1980	106.3	110.9	110.8	79.3	97.7	103.7	96.9	98.4
1981	109.6	119.3	115.5	73.6	95.4	103.9	95.1	97.8
1982	109.3	119.8	115.9	69.8	91.2	102.0	92.8	96.8
1983	110.0	119.3	117.9	67.9	88.3	—	—	—

¹Based on population of age 21 years and older. ²Based on resident population. ³Based on civilian population. ⁴Green-beer: equivalent of instant and regular. ⁵Leaf equivalent of instant and regular. ⁶Preliminary. ⁷Not available.

Sources: Economic Research Department, Wine Institute; Bureau of Alcohol, Tobacco and Firearms; Bureau of the Census; U.S. Department of Agriculture; Distilled Spirits Council of the United States; U.S. Brewers Association.

IMPORTS OF FRENCH WINES AND SPIRITS INTO THE U.S. 1983

	Gallons HL	Cases x1000	% Change Volume / 82	Value Firs. million	% Change Value / 82	Average Price / Case - Firs.	% Price Variation / 82
Sparkling Wines							
Champagne	77,184	2,039	+ 43.7	670.2	+ 49.7	781	+ 4.2
Other Appel. A.O.C.	6,454	171	- 4.5	14.2	+ 17.4	197	+ 23.1
Sparkling w/o appel	28,639	757	+ 57.4	33.2	+ 75.7	104	+ 11.8
Sub-total Sparkling Wines	112,377	2,969	+ 42.3	717.5	+ 49.7	575	+ 5.1
Table Wines / Tranquilles							
Alsace	5,650	149	+ 28.8	12.5	+ 34.4	198	+ 4.2
Anjou	13,198	347	+ 3.5	12.6	+ 5.9	86	+ 2.4
Beaujolais	78,718	2,080	+ 27.0	141.8	+ 41.0	162	+ 10.9
Other Burgundy	140,862	3,722	+ 47.1	482.8	+ 48.8	308	+ 1.0
Bordeaux	204,994	5,416	+ 16.6	448.0	+ 20.4	197	+ 3.6
Cotes du Rhone	31,515	833	+ 5.3	68.0	+ 15.2	189	+ 9.8
Cotes de Provence	1,288	33	- 39.5	2.1	- 40.0	137	- 9.3
Muscadet	12,296	325	+ 28.8	16.2	+ 30.6	118	+ 0.8
Other A.O.C.	33,597	888	+ 26.8	59.3	+ 35.1	159	+ 43.2
Sub-total A.O.C.	522,086	13,794	+ 24.9	1240.7	+ 32.6	214	+ 5.9
V.D.Q.S.	9,292	245	+ 92.8	8.2	+ 82.2	80	- 4.8
Vins de table	355,194	9,384	+ 28.7	276.0	+ 38.0	70	+ 7.7
Sub-total Table Wines / Tranquilles	886,592	23,424	+ 26.7	1524.9	+ 33.8	155	+ 5.4
Vins de Liqueur & Vins Vins	254	7	- 45.2	0.8	- 29.1	350	+ 62.0
TOTAL WINES	999,113	26,397	+ 28.2	2243.2	+ 38.4	202	+ 8.0
Total Vermouths & AIV	17,630	466	+ 13.5	24.7	+ 42.8	126	+ 28.0
Spirits¹							
Cognac	73,595	1,944	+ 3.7	1030.1	+ 12.2	504	+ 8.3
Armagnac	1,153	30.5	+ 11.7	19.5	+ 28.3	839	+ 20.3
Other Grape Brandy	27,725	732	+ 27.1	62.4	+ 37.7	81	+ 8.0
Calvados	312	8.2	+ 0.6	3.0	+ 15.4	344	+ 13.9
Rum ²	243	6.4	+ 419.0	0.6	+ 100.0	85	- 48.2
Liqueurs	23,923	632	+ 16.0	345.9	+ 61.7	520	+ 39.0
Other Spirits	1,806	48	+ 26.9	11.5	+ 78.9	230	+ 39.4
TOTAL SPIRITS	128,757	3,402	+ 11.2	1472.9	+ 22.8	412	+ 10.8

¹Volume in gallons and hectoliters is in pure alcohol (100% alcohol) and 40% alcohol (80 proof) in case volume; 1 HL PA = 27.78 cases (12 bottles 750 ml at 40° alcohol) = 28.42 gal. proof. ²not including rum from French West Indies.

Conversions: 1 gallon = 3.785 liters = 0.42 cases; 1 HL = 100 liters = 11.11 cases (1 standard case = 12 bottles - 750 ml = 9 liters = 2.38 gallons); 8 Firs. = \$1

Source: Statistiques C.F.C.E.

tinued in 1983, with this category declining 13.1% to 18.0 million gallons; however, if the 1983 gallonage of "other wine" (wine coolers) is added to last year's low-alcohol OSN gallonage, then low-alcohol flavored wines grew from 30.7 million gallons in 1982 to 24.2 million gallons in 1983. The foreign component of low-alcohol wines, Spanish sangria, declined 16.1% in 1983 to 2.1 million gallons. Low-alcohol OSN wines reached their sales peak in 1974, when 51.6

million gallons were shipped to the U.S. market. High-alcohol OSN wines were up 6.6% in 1983. U.S.-produced high-alcohol OSN wines accounted for 97.6% of the 11.3 million gallons shipped to U.S. markets.

In 1983, for the ninth consecutive year, per capita wine consumption increased in the U.S. Per capita consumption was 2.25 gallons last year and 2.22 gallons in 1982. Consumption per person in the states in 1983 ranged from Mississippi's .63 gallon to

the District of Columbia's 6.95 gallons. As is usually the case, per capita gains were spread unevenly throughout the country, and only 19 states registered increases in the amount of wine consumed per person. Of the states with gains, Wisconsin had the largest per capita increase, with a gain of 10.8%.

If the District of Columbia and Nevada are excluded from per capita consumption ranking because of the extraordinary non-

FOREIGN WINE SHIPMENTS INTO THE UNITED STATES, BY TYPES OF WINE AND COUNTRIES OF ORIGIN
Calendar Year 1983¹

Country of Origin	Table ²		Deccent ³		Sparkling ⁴		Vermouth		Other Special Natur ⁵		All wine	
	1,000 Gallons	Percent of Type	1,000 Gallons	Percent of Type	1,000 Gallons	Percent of Type	1,000 Gallons	Percent of Type	1,000 Gallons	Percent of Type	1,000 Gallons	Percent of Total
Italy	63,441	57.0	181	5.3	5,472	49.3	2,369	85.5	24	1.0	71,487	54.6
France	22,226	20.0	85	2.5	2,615	23.5	377	13.6	9	0.4	25,351	19.4
West Germany	15,063	13.5	1	0.0	336	3.0	2	0.1	26	1.1	15,429	11.8
Spain	1,333	1.2	2,160	63.7	2,522	22.7	6	0.2	2,069	88.3	8,090	6.2
Portugal	4,556	4.1	137	4.0	6	0.1	0	0.0	1	0.1	4,705	3.6
Japan	292	0.3	638	18.8	1	0.0	0	0.0	0	0.0	931	0.7
Yugoslavia	780	0.7	2	0.1	1	0.0	0	0.0	0	0.0	784	0.6
Greece	577	0.5	19	0.6	0	0.0	0	0.0	0	0.0	596	0.5
Bulgaria	375	0.3	0	0.0	0	0.0	0	0.0	0	0.0	375	0.3
Chile	346	0.3	0	0.0	1	0.0	0	0.0	0	0.0	347	0.3
United Kingdom	154	0.1	79	2.3	60	0.5	8	0.3	19	0.8	321	0.2
Romania	303	0.3	0	0.0	2	0.0	0	0.0	0	0.0	305	0.2
Hungary	293	0.3	0	0.0	4	0.0	0	0.0	0	0.0	297	0.2
Israel	272	0.2	1	0.0	8	0.1	0	0.0	0	0.0	281	0.2
Netherlands	191	0.2	2	0.1	16	0.1	1	0.0	5	0.2	216	0.2
Argentina	202	0.2	3	0.1	1	0.0	0	0.0	0	0.0	206	0.2
Austria	166	0.2	0	0.0	12	0.1	0	0.0	0	0.0	180	0.1
Denmark	14	0.0	6	0.2	0	0.0	0	0.0	187	8.7	178	0.1
Australia	151	0.1	4	0.1	9	0.1	0	0.0	0	0.0	165	0.1
Algeria	159	0.1	0	0.0	0	0.0	0	0.0	0	0.0	159	0.1
Rep. of S. Africa	114	0.1	2	0.1	4	0.0	0	0.0	0	0.0	120	0.1
Belgium	96	0.1	0	0.0	7	0.1	1	0.0	0	0.2	104	0.1
Canada	34	0.0	0	0.0	11	0.1	1	0.0	10	0.4	56	0.0
Taiwan	0	0.0	38	1.1	0	0.0	0	0.0	3	0.1	41	0.0
Switzerland	33	0.0	0	0.0	5	0.0	0	0.0	0	0.0	38	0.0
New Zealand	20	0.0	0	0.0	2	0.0	0	0.0	12	0.5	35	0.0
China	16	0.0	15	0.4	0	0.0	0	0.0	1	0.0	32	0.0
East Germany	28	0.0	0	0.0	1	0.0	0	0.0	0	0.0	28	0.0
Other Countries	111	0.1	18	0.5	8	0.1	4	0.1	7	0.3	148	0.1
Total	111,392	100.0	3,393	100.0	11,108	100.0	2,769	100.0	2,344	100.0	131,006	100.0

¹Imports for consumption. ²Sum of components may not equal total in all cases as a result of rounding. Amounts less than 500 gallons and percentages less than 0.05 percent are rounded to zero. ³Includes unflavored fruit wine from Japan amounting to 286,000 gallons. ⁴Includes sake (rice wine) amounting to 693,000 gallons. ⁵May include small amounts of other special natural sparkling wine. ⁶Imports classified by U.S. Customs Service as "other fermented alcoholic beverages," except that from Japan which is included in table wine because it is believed to be unflavored fruit wine not over 14 percent alcohol. Wine in this category from Spain is believed to be sangria while that from the remaining countries is believed to be almost entirely flavored fruit wine over 14 percent alcohol.

Sources: Economic Research Department, Wine Institute; Bureau of the Census, U.S. Department of Commerce.

COMMERCIALLY PRODUCED WINE
ENTERING DISTRIBUTION CHANNELS
IN THE U.S., BY STATES

WINE ENTERING DISTRIBUTION CHANNELS IN THE U.S.
BY AREAS WHERE PRODUCED AND BY TYPES OF WINE
1974 - 1983

State	1983 ¹ 1,000 Gallons	Wine Type and year	California ²		Other States ²		Tot. US Prod. ²		Foreign ²		All Wine	
			1,000 Gallons	% of Total	1,000 Gallons	% of Total	1,000 Gallons	% of Total	1,000 Gallons	% of Total	1,000 Gallons	% change from last yr.
Alabama	4,067	Table										
Alaska	1,537	Table										
Arizona	7,780	1974	134,793	70.2	22,420	11.7	157,213	81.9	34,704 ¹	18.1	191,917	+ 3.8
Arkansas	1,794	1975	151,958	72.8	21,553	10.3	173,511	83.1	35,174 ¹	16.9	208,685	+ 8.7
California	116,485	1976	159,768	70.2	22,267	9.8	182,035	80.0	45,585 ¹	20.0	227,620	+ 9.1
Colorado	8,730	1977	182,728	69.8	22,490	8.8	205,218	78.6	56,041 ¹	21.4	261,259	+14.8
Connecticut	9,825	1978	203,304	87.6	19,146	6.4	222,450	74.0	78,226 ¹	26.0	300,676	+15.1
Delaware	1,328	1979	223,285	88.9	22,533	7.0	245,818	75.8	78,332 ¹	24.2	324,150	+ 7.8
Dist. of Col.	4,329	1980	248,598	89.1	22,881	8.4	271,479	75.5	88,150 ¹	24.5	359,629	+10.9
Florida	27,077	1981	258,058	89.5	19,268	5.0	288,134	74.5	98,562 ¹	25.5	386,696	+ 7.5
Georgia	7,876	1982	273,287	88.8	18,929	4.8	292,216	73.6	105,093 ¹	28.5	397,309	+ 2.7
Hawaii ³	1,738	1983 ²	273,415	87.9	17,590	4.4	291,005	72.3	111,392 ¹	27.7	402,397	+ 1.3
Idaho	24,244	Dessert										
Illinois	6,234	1974	44,254	88.9	19,238	29.1	63,470	98.0	2,838 ¹	4.0	66,108	- 4.0
Indiana	2,223	1975	45,346	87.6	19,294	28.8	64,640	96.4	2,417 ¹	3.8	67,057	+ 1.4
Iowa	1,898	1976	39,777	85.2	18,245	29.9	58,022	95.1	2,963 ¹	4.9	60,985	- 9.1
Kansas	2,751	1977	37,577	85.3	18,928	29.4	56,505	94.7	3,024 ¹	5.3	57,529	- 0.7
Kentucky	7,592	1978	34,494	83.7	15,839	29.2	50,333	92.9	3,819 ¹	7.1	54,152	- 5.9
Louisiana	2,136	1979	29,485	82.2	14,806	30.9	44,274	93.1	3,282 ¹	6.9	47,336	-12.6
Maine	9,255	1980	25,218	58.3	16,388	36.8	41,606	82.9	3,190 ¹	7.1	44,796	- 5.4
Maryland	18,260	1981	22,393	53.0	16,530	39.1	38,923	92.0	3,364 ¹	8.0	42,287	- 5.6
Massachusetts	15,417	1982	21,031	52.3	15,993	39.8	37,024	92.1	3,193 ¹	7.9	40,217	- 4.9
Michigan	6,923	1983 ²	18,993	49.9	15,651	41.4	34,644	91.1	3,393 ¹	8.9	38,037	- 5.4
Minnesota	1,636	Vermont										
Mississippi	6,846	1974	3,610	38.6	1,875	17.0	5,285	53.8	4,571	48.4	9,856	- 3.5
Montana	1,555	1975	3,571	37.4	1,711	17.9	5,282	55.3	4,278	44.8	9,561	- 3.1
Nebraska	1,948	1976	3,830	41.4	1,395	15.1	5,225	56.5	4,017	43.5	9,242	- 3.2
Nevada	4,385	1977	3,780	42.5	1,438	18.1	5,228	58.6	3,696	41.4	8,924	- 3.4
New Hampshire	3,365	1978	3,580	38.6	1,849	17.3	5,322	58.8	4,208	44.2	9,530	+ 6.8
New Jersey	24,658	1979	3,959	48.2	1,401	18.4	5,360	62.6	3,203	37.4	8,563	-10.1
New Mexico	2,631	1980	4,582	53.3	1,137	13.2	5,719	68.5	2,886	33.5	8,605	+ 0.5
New York	53,077	1981	4,180	52.0	980	12.2	5,140	64.2	2,886	35.8	8,007	- 7.0
North Carolina	8,186	1982	4,298	56.1	714	9.3	5,012	65.4	2,846	34.5	7,859	- 4.3
North Dakota	706	1983 ²	4,112	54.9	815	8.2	4,727	63.1	2,789	36.9	7,496	- 2.1
Ohio	14,261	Sparkling										
Oklahoma	3,160	1974	14,203	71.3	3,808	19.2	18,009	90.9	1,804	9.1	19,813	- 5.4
Oregon	8,605	1975	15,030	73.8	3,405	16.7	18,435	90.5	1,928	9.5	20,363	+ 2.8
Pennsylvania	16,559	1976	15,459	71.0	3,750	17.2	19,209	88.2	2,559	11.8	21,768	+ 6.9
Rhode Island	3,069	1977	17,428	71.8	3,913	16.1	21,341	87.9	2,939	12.1	24,280	+11.5
South Carolina	3,984	1978	18,287	71.1	3,110	12.1	21,397	83.2	4,307	18.8	25,704	+ 5.9
South Dakota	717	1979	19,030	70.5	3,411	12.6	22,441	83.2	4,533	18.8	26,974	+ 4.9
Tennessee	4,069	1980	21,151	70.5	4,007	13.4	25,158	83.9	4,826	18.1	29,984	+11.2
Texas	25,667	1981	23,183	67.5	4,069	11.9	27,232	79.4	7,087	20.6	34,319	+14.5
Utah	1,192	1982	24,508	88.4	4,226	11.3	29,134	77.7	8,353	22.3	37,487	+ 9.2
Vermont	1,615	1983 ²	27,398	83.1	4,933	11.4	32,331	74.7	11,108	25.6	43,439	+15.9
Virginia	9,275	OSM not over 14%										
Washington	14,210	1974	41,001	78.5	3,420	6.6	44,421	86.2	7,130 ¹	13.8	51,551	+ 1.1
West Virginia	1,535	1975	43,766	88.9	2,158	4.2	45,924	90.2	4,999 ¹	9.8	50,923	- 1.2
Wisconsin	9,802	1976	39,305	88.5	1,680	3.8	40,985	92.3	3,429 ¹	7.7	44,411	-12.8
Wyoming	659	1977	31,221	86.3	1,857	5.1	33,078	91.4	3,109 ¹	8.6	36,187	-18.5
States Total	519,499	1978	24,700	83.6	1,689	5.0	26,389	89.3	3,147 ¹	10.7	29,536	-18.4
U.S. Total ²	526,917	1979	22,818	84.8	1,611	8.0	24,429	90.8	2,484 ¹	9.2	26,912	- 8.9
		1980	20,967	79.7	2,183	8.3	23,150	88.0	3,170 ¹	12.0	26,320	- 2.2
		1981	18,700	78.7	2,554	10.7	21,254	89.4	2,516 ¹	10.6	23,770	- 9.7
		1982	16,161	77.9	2,115	10.2	18,276	88.1	2,468 ¹	11.9	20,742	-12.7
		1983 ²	14,165	78.6	1,785	9.9	15,950	88.5	2,069 ¹	11.5	18,019	-12.1
		OSM over 14%										
		1974	9,035	88.6	618	6.1	9,653	94.6	549 ¹	5.4	10,202	-10.9
		1975	10,558	92.7	380	3.2	10,918	95.9	468 ¹	4.1	11,385	+11.6
		1976	11,286	91.3	708	5.7	11,994	97.0	389 ¹	3.0	12,383	+ 8.6
		1977	11,813	92.3	583	4.6	12,396	96.9	397 ¹	3.1	12,792	+ 3.5
		1978	10,703	93.3	401	3.5	11,104	96.8	368 ¹	3.2	11,474	-10.3
		1979	9,700	92.9	364	3.7	10,064	96.6	356 ¹	3.4	10,439	- 9.0
		1980	8,713	94.4	287	2.8	10,008	97.2	285 ¹	2.8	10,293	- 1.4
		1981	8,793	92.3	495	4.7	10,288	97.0	317 ¹	3.0	10,605	+ 3.0
		1982	10,007	84.1	286	2.7	10,293	96.8	338 ¹	3.2	10,631	+ 0.2
		1983 ²	10,819	95.5	235	2.1	11,054	97.6	275 ¹	2.4	11,329	+ 6.2
		Other ³										
		1983 ²	5,000	80.6	1,200 ¹	19.4	6,200	100.0	0	0.0	6,200	-

¹Preliminary ²Federal tax-paid shipments to Hawaii by California licensees and imports into Hawaii customs district from foreign countries. ³"U.S. Total" comprises taxable withdrawals of United States produced wine and imports for consumption of foreign wine. It includes certain wines that may not be included in the individual state figures, such as wines used in producing rectified beverages other than wine, sacramental wines, wine sold on military posts, and wine used in prepared foods, medicinal products and miscellaneous beverages.

Sources: Economic Research Department, Wine Institute; BATF, U.S. Treasury Department.



**WINE ENTERING DISTRIBUTION CHANNELS IN THE U.S.
BY AREAS WHERE PRODUCED AND BY TYPES OF WINE
1974 - 1983**

Wine Type and year	California ¹		Other States ²		Tot. U.S. Prod. ³		Foreign ⁴		All Wine	
	1,000 Gallons	% of Total	1,000 Gallons	% of Total	1,000 Gallons	% of Total	1,000 Gallons	% of Total	1,000 Gallons	% change from last yr.
All Wine										
1974	246,896	70.6	51,175	14.7	298,071	85.3	51,394	14.7	349,465	+ 0.6
1975	270,229	73.4	48,481	13.2	318,710	86.6	49,319	13.4	368,029	+ 5.3
1976	289,425	71.6	48,045	12.6	317,470	84.3	58,918	15.7	376,389	+ 2.3
1977	284,577	71.0	47,209	11.8	331,786	82.7	89,208	17.3	400,972	+ 6.5
1978	295,168	68.5	41,828	9.7	336,996	78.2	94,076	21.8	431,073	+ 7.5
1979	308,257	69.4	43,949	9.9	352,206	79.3	92,169	20.7	444,375	+ 3.1
1980	330,229	68.9	46,891	9.8	377,120	78.6	102,507	21.4	479,628	+ 7.9
1981	347,077	68.6	43,884	8.7	390,971	77.3	114,713	22.7	505,684	+ 5.4
1982	349,682	68.0	42,284	8.2	391,966	76.2	122,089	23.8	514,045	+ 1.7
1983 ⁵	353,902	67.2	42,009	8.0	395,911	75.1	131,008	24.9	526,917	+ 2.5

¹Shipments of California wine to all markets less estimated shipments to foreign countries. ²Total U.S. produced less California. ³Tablet withdrawn. ⁴Downward adjustment of 1.6 million gallons made in 1983 table wine category. ⁵Analysis indicates overreporting by Bureau of Alcohol, Tobacco and Firearms. ⁶Imports for consumption. ⁷Includes fruit wine from Japan. ⁸Preliminary. ⁹Includes sake (rice wine). ¹⁰Sangria from Spain. ¹¹Mostly fruit wine from Denmark.

¹²Wine cooler product which must be manufactured on the premises of a bonded winery or bonded wine cellar in accordance with Bureau of Alcohol, Tobacco and Firearms regulations. ¹³Estimate.

Sources: California Board of Equalization, Bureau of Alcohol, Tobacco and Firearms, Bureau of the Census.

Wines & Vines
has the latest industry information.
Don't get caught without it.

**FOREIGN WINE SHIPMENTS, BY MAJOR COUNTRIES OF ORIGIN
1974 to 1983**

Year	Italy	France	West Germany	Spain	Portugal	Japan	Yugoslavia	Greece	Bulgaria	Chile	Other Countries	All Countries	Change from last yr.
													%
1974	9,578	6,877	5,244	688	8,475	863	203	559	0	227	1,990	34,704	-11.1
1975	11,883	7,412	6,103	857	6,716	522	98	494	1	18	1,070	35,174	+ 1.4
1976	17,605	10,133	8,765	1,518	5,549	446	60	420	0	34	1,055	45,585	+29.6
1977	24,184	11,534	10,403	1,399	5,730	249	80	559	0	64	1,838	56,041	+22.9
1978	39,422	13,964	13,781	1,680	6,269	211	90	693	0	98	2,018	78,226	+39.6
1979	43,188	12,879	11,684	1,724	5,935	163	88	586	0	188	1,897	78,332	+ 0.1
1980	54,259	11,381	11,659	1,634	5,983	211	312	573	268	222	1,948	88,150	+12.5
1981	59,880	15,054	13,034	1,464	5,386	291	350	571	184	272	2,118	98,562	+11.8
1982	63,024	18,050	13,198	1,501	5,053	257	582	627	294	287	2,240	105,093	+ 6.6
1983	63,441	22,266	15,063	1,333	4,558	292	780	577	375	346	2,361 ¹	111,392	+ 6.0
All Wine													
1974	14,373	8,452	5,348	2,549	8,646	1,173	207	582	0	278	9,838	51,394	- 7.3
1975	16,628	8,919	6,195	2,600	6,815	848	103	509	1	18	6,883	49,319	- 4.0
1976	22,516	11,870	8,860	6,874	5,719	838	63	434	0	34	1,710	58,918	+19.5
1977	29,067	13,315	10,511	6,458	5,888	689	86	583	0	65	2,060	68,722	+16.6
1978	45,437	16,352	13,941	7,455	6,454	682	95	713	0	100	2,847	94,076	+36.9
1979	48,402	15,133	11,869	6,603	6,059	579	90	608	0	192	2,834	92,169	- 2.0
1980	59,545	13,294	11,874	7,469	5,798	613	319	590	268	225	2,512	102,507	+11.2
1981	66,287	17,539	13,275	7,150	5,505	759	359	594	186	275	2,784	114,713	+11.9
1982	70,017	20,339	13,482	7,893	5,188	772	564	651	294	290	2,799	122,089	+ 6.4
1983	71,487	25,351	15,429	8,090	4,705	931	784	596	375	347	2,911 ¹	131,006	+ 7.3

¹Includes, in thousands of gallons: United Kingdom 154, Romania 303, Hungary 293, Israel 272, Netherlands 191, Argentina 202, Austria 168, Denmark 14, Australia 151, Algeria 159, and Other Countries 494.

²Includes, in thousands of gallons: United Kingdom 321, Romania 305, Hungary 297, Israel 281, Netherlands 216, Argentina, 206, Austria 180, Denmark, 178, Australia 165, Algeria 159, and Other Countries 603.

Sources: Economic Research Department, Wine Institute, Bureau of the Census, U.S. Department of Commerce.

JULY, 1984

U.S. IMPORTS OF ITALIAN WINES BY DENOMINATION
1,000s of 9-liter cases

D.O.C. WINES	1975	1980	1981	1982	1983*
Soave	410	2,200	2,200	2,800	2,750
Valpolicella	320	800	675	730	760
Bardolino	240	650	580	600	560
Chianti Classico	150	270	330	340	320
Chianti	430	170	120	115	150
Frascati	30	280	220	300	335
Trebbiano d'Aprilia	N.A.	140	135	125	145
Orvieto	35	85	120	120	110
Pinot Grigio D.O.C.	6	20	22	30	100
Merlot D.O.C.	2	20	15	75	95
Colli Albani	N.A.	65	65	75	90
Verdicchio Dei Castelli di Jesi	100	140	130	115	75
Cabernet D.O.C.	3	27	25	60	60
Trebbiano d'Abruzzo	N.A.	30	55	80	60
Montepulciano d'Abruzzo	9	50	50	55	45
Barolo	13	45	45	40	40
Lambrusco D.O.C.	100	260	350	230	33
Pinot Bianco D.O.C.	1	28	30	25	25
Amarone della Valpolicella	3	18	17	20	22
Gavi	N.A.	N.A.	N.A.	10	20
Barbera d'Alba e d'Asti	6	20	22	14	14
Esti di Montefiascone	N.A.	8	7	14	14
Gattinara	2	11	10	11	11
Valltellina	1.5	12	10	8	8
Barbaresco	1	9	8	5	8
Brunello di Montalcino	2.5	5	5	4	3
Other D.O.C. wines from Lallum, Marches, Umbria	N.A.	15	30	20	20
Other D.O.C. wines from Tre Venezie	2.5	21	48	47	15
Other D.O.C. wines from Tuscany	1	4	10	3	18
Other D.O.C. wines from Piedmont	6	18	16	14	10
Other D.O.C. wines from other regions	3.5	42	50	40	34
TOTAL	1,923.5	5,443	5,400	6,125	5,945
Non D.O.C. Wines, By Region					
Emilia-Romagna					
Lambrusco	2,900	9,900	10,300	8,800	8,500
Other wines	250	5,720	7,025	7,300	8,100
Piedmont	N.A.	800	1,185	1,410	2,500
Tre Venezie	25	120	450	780	850
Sicily	40	390	455	535	420
Lallum	60	260	230	290	145
Tuscany	62	42	25	140	100
Other regions	7	25	50	70	65
Total Non D.O.C. wines	3,344	17,257	19,720	20,325	20,655
Other wines (Unspecified region)	N.A.	100	55	50	55
All Wine	5,267.5	22,800	25,175	26,500	26,680

*Preliminary. N.A.—Not Available.

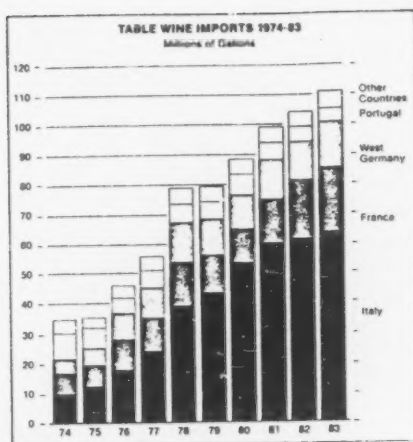
Source: Italian Trade Commission, Wine Center, New York.

traded places, with Texas moving up to fourth place and Illinois slipping to Texas' former sixth position. The Top 10 states accounted for 64.6% of total U.S. wine sales in 1983, the same share as in 1982. In general, residents of these states consume more wine than the national average. Wine sales seem to be reflecting the general economic growth patterns of the U.S. industrial heartland and the Sunbelt states.

Table and aperitif/dessert wine prices, as measured by the consumer price index (CPI)

calendar year average, were practically the same in 1983 as in 1982. For table and aperitif/dessert wines the CPI actually dropped a fraction of a point in 1983. The increase for all items during the same period was 3%. These low or nonexistent consumer price index increases for all items and wine in 1983 were significantly different from the pattern of past years. From 1979 to 1983 the respective increases in the CPI for wine and all items were 23.4% and 36.6%, respectively. ■

WINES & VINES



Wine sales have lagged behind economy growth

Sales of California wine have lagged behind the general upsurge in U.S. economic activity.

In 1983, for the second year running, growth in California wine shipments was below 2%. The 5.3 million gallon increase in total shipments was 1.5% greater than the 1982 total of 358.5 million gallons. This contrasts sharply with an average annual growth of 5.7% between 1976 and 1981. The first quarter shipments in 1983 were particularly low, down 3.9% from the same period in 1982. Shipments picked up during the year, but not dramatically. Moreover, for the first quarter of 1984, California sales were only 0.6% greater than in the poor first quarter of 1983.

Last year sales of California wine to the California market were up 4.1% to 103.7 million gallons, 28.5% of total California wine shipments went to the California market, up from 27.8% in 1982. Shipments to all markets outside California, including foreign destinations, were 280.1 million gallons. These shipments grew 0.5% and made up 71.5% of all California sales. It appears that California vintners are having some success selling within their state; nevertheless, wine produced outside California also fared well in California in 1983, and gained in market share at the expense of California wines. The percent of California produced wine consumed by Californians actually declined from 90.6% in 1982 to 89.1% in 1983. Since Californians consume 22.4% of all wine distributed in the U.S., the California market is of great importance to California winemakers.

California table wine shipments to all markets, the bellwether growth category of the past decade, barely increased in 1983. Table wine was up a scant 0.3% to 281.4 million gallons. Prior to 1982, table wine shipments from California had grown for a decade at yearly rates of 5% or more, and

ESTIMATED SHIPMENTS OF CALIFORNIA WINE TO ALL MARKETS BY TYPES OF WINE, 1976 - 1983¹

Year	1,000 Gallons	% Change from Last Year	% of All Types	1,000 Gallons	% Change from Last Year	% of All Types
		Table ²			Dessert ³	
1976	161,078	—	59.2	40,186	—	14.8
1977	184,623	+14.6	64.2	37,913	- 5.7	13.2
1978	205,517	+11.3	88.8	34,701	- 8.5	11.6
1979	227,717	+10.8	72.5	29,679	-14.5	9.4
1980	255,385	+12.1	75.4	25,487	-14.1	7.5
1981	278,005	+ 8.9	77.6	22,732	-10.8	6.3
1982	280,681	+ 1.0	78.3	21,261	- 6.5	5.9
1983	281,416	+ 0.3	77.4	19,371	- 8.9	5.3
		Sparkling ⁴			Vermouth	
1976	15,909	—	5.8	3,844	—	1.4
1977	17,948	+12.8	6.2	3,824	- 0.5	1.3
1978	18,817	+ 4.8	6.3	3,710	- 3.0	1.2
1979	19,848	+ 5.5	6.3	3,988	+ 7.5	1.3
1980	21,850	+10.1	6.4	4,631	+18.1	1.4
1981	23,962	+ 9.7	6.7	4,223	- 8.8	1.2
1982	25,534	+ 6.6	7.1	4,345	+ 2.9	1.2
1983	28,082	+ 9.9	7.7	4,194	- 3.5	1.2
		Other Special Natural Not Over 14% alcohol ⁵			Other Special Natural Over 14% alcohol	
1976	39,680	—	14.6	11,328	—	4.2
1977	31,545	-20.5	11.0	11,918	+ 5.2	4.1
1978	24,969	-20.8	8.4	10,861	- 8.9	3.8
1979	23,274	- 6.8	7.4	9,770	-10.0	3.1
1980	21,514	- 7.6	6.4	9,817	+ 0.5	2.9
1981	19,335	-10.1	5.4	9,941	+ 1.3	2.8
1982	16,598	-14.2	4.6	10,116	+ 1.8	2.8
1983	19,730 ⁶	+18.9	5.4	11,035	+ 9.1	3.0
		Total Other Special Natural			All Types	
1976	51,006	—	18.8	272,025	- 0.2	100.0
1977	43,463	-14.8	15.1	287,771	+ 5.8	100.0
1978	35,830	-17.6	12.0	298,575	+ 3.8	100.0
1979	33,044	- 7.8	10.5	314,276	+ 5.3	100.0
1980	31,331	- 5.2	9.3	338,684	+ 7.8	100.0
1981	29,276	- 6.6	8.2	358,199	+ 6.8	100.0
1982	26,714	- 8.8	7.5	358,534	+ 0.1	100.0
1983	30,785 ⁷	+15.2	8.5	363,808	+ 1.5	100.0

¹Shipments of California wine to U.S. and foreign markets. ²Shipments of California still wine not over 14 percent alcohol less estimated shipments of other special natural still wine and other wine not over 14 percent alcohol. ³Shipments of California still wine over 14 percent alcohol less estimated shipments of vermouth and other special natural still wine over 14 percent alcohol. ⁴Shipments of California sparkling wine less estimated shipments of other special natural sparkling wine. ⁵Includes minor quantities of other special natural sparkling wine. ⁶Includes other wine (wine coolers).

Sources: Economic Research Department, Wine Institute, California Board of Equalization and Bureau of Alcohol, Tobacco and Firearms.

CALIFORNIA WINE SHIPMENTS, BY WINE TYPES, 1974-1983

	(1000s of Gallons)												%
	Still Wine 14% Alcohol and Under ¹			Still Wine Over 14% Alcohol ¹			Sparkling Wine ²			All Wine			Change from Last Year
	to Calif. Markets	to Other Markets	to All Markets	to Calif. Markets	to Other Markets	to All Markets	to Calif. Markets	to Other Markets	to All Markets	to Calif. Markets	to Other Markets	to All Markets	
1974	55,168	122,081	177,249	10,663	46,629	57,292	4,078	10,478	14,556	69,929	179,187	249,116	-2.7
1975	59,114	138,059	197,173	10,915	49,000	59,915	4,104	11,335	15,439	74,133	198,394	272,527	+9.4
1976	61,898	138,861	200,758	9,648	45,710	55,358	4,212	11,697	15,909	75,758	196,267	272,025	-0.2
1977	68,878	149,289	218,167	9,835	43,819	53,655	4,900	13,054	17,954	81,608	206,162	287,771	+5.8
1978	70,667	159,793	230,460	8,829	40,442	49,272	5,439	13,404	18,843	84,936	213,639	298,575	+3.7
1979	74,186	176,772	250,958	8,366	35,071	43,437	5,971	13,910	19,881	88,523	225,753	314,276	+5.3
1980	81,391	195,486	276,879	7,675	32,260	39,935	6,530	13,910	21,850	95,596	243,068	338,664	+7.8
1981	83,504	213,810	297,314	7,539	29,356	36,896	7,171	16,818	23,988	98,214	259,985	358,199	+5.8
1982	84,344	212,927	297,271	7,502	28,220	35,722	7,777	17,765	25,542	99,623	258,911	358,534	+0.1
1983	87,514	213,622	301,136	7,451	27,149	34,600	8,752	19,320	28,072	103,717	260,091	363,808	+1.5

¹Includes table wine and other special natural still wines not over 14 percent alcohol by volume. ²Includes dessert wine, vermouth and other special natural still wine over 14 percent alcohol by volume. ³Includes all naturally fermented and artificially carbonated sparkling wines. Other special natural sparkling wines are included.

Sources: Economic Research Department, Wine Institute, California Board of Equalization.

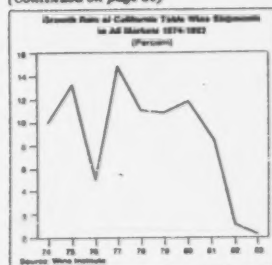
In some years the growth in shipments exceeded 10%. Table wine's share of total 1983 California shipments slipped downward to 77.4% from its 1982 mark of 78.3%. Until last year, table wine's share of total California shipments had increased every year since 1971.

The performance of other California wine categories was mixed in 1983. Shipments of sparkling wine were up 9.9% to 28.1 million gallons. For the five-year period ending in 1983, sparkling wine shipments have grown at an average annual rate of 8.3%. Although low-alcohol OSN wine shipments were down last year, when wine coolers ("other wine") are added to this category, the low-alcohol flavored segment of California produced wine registered an 18.9% gain (19.7 million gallons). Without the advent of wine coolers, which accounted for over 5 million gallons of California sales, it is possible that there would have been a decrease in total 1983 California shipments. A decrease would have occurred if the consumers of wine coolers had not substituted other California wine products for coolers in the event the latter were unavailable. Another category which showed surprising growth was high-alcohol OSN wines. High-alcohol OSN wines were up 9.1% to 11 million gallons. Shipments of California produced aperitif/dessert wines continued in a downward direction in 1983. With last year's shipments of 19.4 million gallons, the dessert category was down 8.9%. California vermouth sales, which make up only 1.2% of total California shipments, were down 3.5% to 4.2 million gallons.

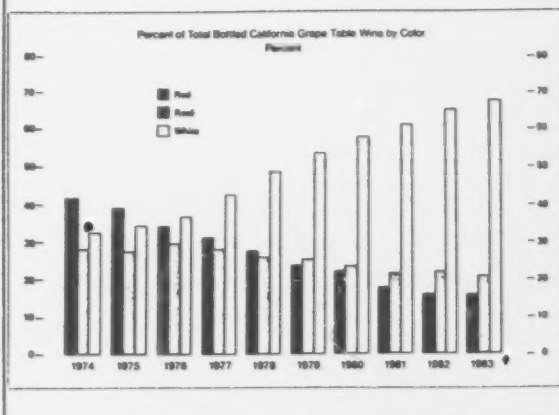
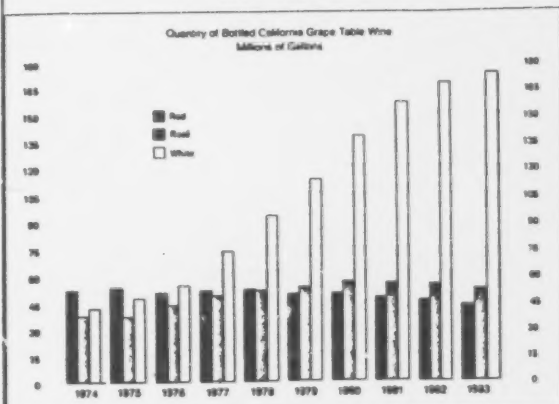
In 1983, shipments of bottled California red and rose grape table wine to U.S. markets declined for the third consecutive year. Rose was down 5.8% last year, after being down 2.4% in 1982 and 1.1% in 1981. For the same years, red was down 7.1%, 7.8%, and 4.3% respectively. Red's share of total shipments declined from 16.5% to 15.4%; rose dropped from 20.5% of the market to 19.3%; and white gained market share—from 63.0% to 65.3%—as it has in each year since 1974 when the color survey was initiated.

In 1983 the gallonage total for bottled white table wine shipments was 172.2 million gallons, a 3.5% increase over 1982.

(Continued on page 36)



ESTIMATED SHIPMENTS OF CALIFORNIA GRAPE TABLE WINE TO U.S. MARKETS, BY COLOR CATEGORIES 1974-1983



ESTIMATED SHIPMENTS OF BOTTLED CALIFORNIA GRAPE TABLE WINE
TO U.S. MARKETS, BY COLOR CATEGORIES
1974-1983¹

Year	Red			Rose			White			Total	
	Quantity	Change from Last Year	Percent of Total	Quantity	Change from Last Year	Percent of Total	Quantity	Change from Last Year	Percent of Total	Quantity	Change from Last Year
	1,000 Gallons		Percent	1,000 Gallons		Percent	1,000 Gallons		Percent	1,000 Gallons	Percent
1974	49,539	—	40.9	33,577	—	27.5	35,583	—	31.6	122,099	—
1975	53,780	+7.7	39.0	37,233	+10.9	27.0	46,666	+21.5	34.0	137,699	+12.9
1976	50,443	-6.2	34.1	43,638	+17.2	29.5	53,845	+14.8	36.4	147,926	+7.3
1977	51,629	+2.4	29.7	48,674	+11.5	28.0	73,533	+36.6	42.3	173,836	+17.5
1978	51,644	?	26.3	51,054	+4.9	26.0	93,665	+27.4	47.7	196,363	+13.0
1979	49,085	-5.0	22.7	53,016	+3.8	24.5	114,187	+21.9	52.8	216,288	+10.1
1980	49,434	+0.7	20.3	56,017	+5.7	23.0	138,020	+20.9	56.7	243,471	+12.6
1981	47,322	-4.3	18.2	55,414	-1.1	21.3	157,304	+14.0	60.5	260,040	+6.8
1982	43,631	-7.6	16.5	54,089	-2.4	20.5	166,390	+5.8	63.0	264,110	+1.6
1983	40,544	-7.1	15.4	50,956	-5.8	19.3	172,192	+3.5	65.3	263,692	-0.2

¹Color breakdown based on actual shipments reported by California wineries representing the following % of estimated total bottled grape table wine shipments to the U.S. market by all California wineries: 1974, 88.3%; 1975, 90.0%; 1976, 93.0%; 1977, 89.6%; 1978, 93.4%; 1979, 95.9%; 1980, 94.9%; 1981, 93.9%; 1982, 93.9%; and 1983, 93.3%.

²Less than .05%.

Sources: Economic Research Department, Wine Institute, California Board of Equalization and Bureau of Alcohol, Tobacco and Firearms, U.S. Treasury.

(Continued from page 35)

The average annual growth rate of bottled white table wine shipments for the 1974 to 1983 period is 18.1%. Thus, while white table wine shipments continue to increase, the growth rate of this category for the last two years has been well below its average yearly growth rate during the past decade. Shipments of rose were 33.6 million gallons in 1974 and increased 51.8% to 51.0 million

gallons in 1983. During this period red table wine gallonage went from 49.9 million to 50.5 million. These figures provide a strong reminder of the prominent role white table wine has played in the growth of California wine shipments. From 1974 to 1983 white wine accounted for almost 95% of the total increase in shipments of bottled California table wine.

While wine exports make up less than 3% of total California shipments, there was a time from the mid-1970s to 1981 when exports grew at an astounding pace. Since 1981, export shipments have stagnated. In 1983 commercial exports of U.S. wine fell 16.4% to 7.6 million gallons. California produced wine probably accounts for about 95 percent of these shipments. ☐

Decline in U.S. wine production

Removals are down 23.6%

A measure of wine production is the amount of standard wine removed from fermenters. For crop year 1983, U.S. removals amounted to an estimated 424.8 million gallons, down 23.6% from the 556.2 million gallons removed in crop year 1982, and the lowest amount removed in the last five years.

The decline in U.S. wine production is primarily attributable to California's 2.3 million ton crush in 1983, its lowest since 1976, and well below the record 3.1 million ton crush of 1982. California, the leading wine-producing state by a wide margin, accounted for 90.1% (preliminary estimate) of U.S. removals of standard wine from fermenters in crop year 1983. California removed 382.7 million gallons, or 131.6 million gallons less than in crop year 1982.

New York removed about the same amount of wine in both of the last two years (29.1 million gallons), but because U.S. removals were smaller in crop year 1983, New York's

California is the leading wine-producing state by a wide margin

share of production rose from 5.2% to 6.9%. Among the other states, no state had a share of removals exceeding Washington's .7%. Ranked third among wine-producing states, Washington has increased its produc-

tion in each of the last five years, and its estimated removals of 3.1 million gallons in crop year 1983 represent a 36.6% increase over the amount removed during the same period one year ago.

Wineries in California and New York are clearly dominant in the production of sparkling wine, vermouth, and flavored (OSN) wines. Of these categories, sparkling wine has shown the most growth in recent years. From 1982 to 1983, U.S. sparkling wine production increased by 6.2 million gallons to 37.3 million gallons, an impressive jump of 19.9%. Last year California accounted for 86.6% of the 37.3 million gallons of U.S. sparkling wine production, while New York produced 12.8%. U.S. production of OSN wines was 27.8 million gallons, with 92.5% in California and 6.6% in New York. Ver-

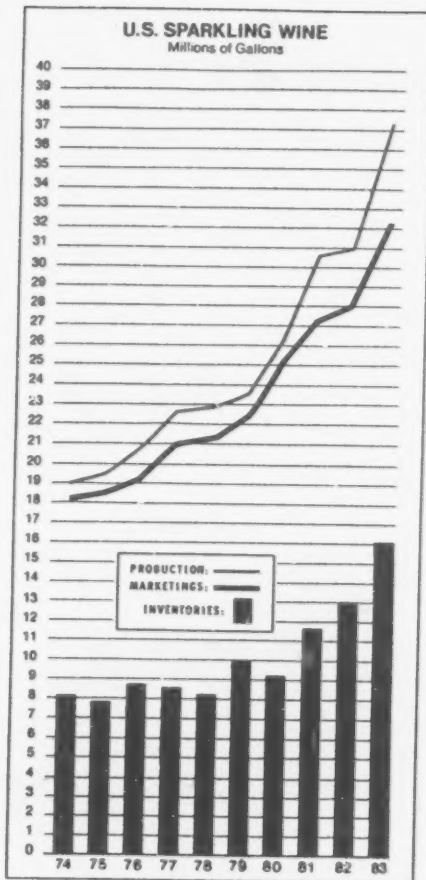
WINE INVENTORIES IN CALIFORNIA, OTHER STATES AND THE UNITED STATES
ON DEC. 31, BY TYPES OF WINE, 1974 to 1983¹

Area and Year	Table 1,000 gals & % of total	Dessert 1,000 gals & % of total	Vermouth 1,000 gals & % of total	Sparkling 1,000 gals & % of total	Other Spec. Natural 1,000 gals & % of total	All wine 1,000 gals	Change from last year
California							
1974	328,000 78.0	80,917 19.2	777 0.2	4,936 1.2	5,986 1.4	420,618	+ 6.9
1975	321,889 77.5	80,579 19.4	1,248 0.3	4,815 1.2	6,734 1.6	415,265	- 1.3
1976	347,051 79.5	74,168 17.0	1,093 0.3	5,093 1.2	9,177 2.1	436,597	+ 5.1
1977	383,349 81.5	73,418 15.6	1,321 0.3	6,491 1.2	8,967 1.5	470,443	+ 7.8
1978	412,838 84.3	63,993 13.1	2,098 0.4	5,338 1.1	5,620 1.1	489,886	+ 4.1
1979	446,373 86.0	59,235 11.4	1,984 0.3	5,815 1.2	5,857 1.1	519,084	+ 6.0
1980	503,506 87.6	56,411 10.2	2,365 0.4	5,892 1.0	4,898 0.8	574,871	+10.7
1981	502,673 86.3	51,334 9.0	2,311 0.4	6,148 1.4	4,899 0.9	569,366	- 0.9
1982	595,874 90.1	46,858 7.4	2,234 0.3	9,669 1.5	4,777 0.7	661,212	+16.1
1983 ²	550,276 89.7	44,178 7.2	2,208 0.4	12,536 2.0	4,236 ³ 0.7	613,434	- 7.2
Other States							
1974	26,207 67.0	8,854 22.1	386 1.0	3,173 8.1	673 1.7	39,093	+ 4.9
1975	30,110 67.8	10,127 22.6	452 1.0	3,083 6.9	641 1.4	44,413	+13.6
1976	30,695 67.5	10,491 23.1	371 0.8	3,259 7.2	635 1.4	45,451	+ 2.3
1977	28,664 65.9	11,069 25.5	270 0.6	3,064 7.0	382 0.9	43,478	- 4.3
1978	31,269 68.5	10,630 23.3	387 0.8	2,904 6.4	441 1.0	45,631	+ 5.0
1979	32,031 65.0	12,096 24.6	288 0.6	4,412 9.0	447 1.0	49,274	+ 8.0
1980	30,109 67.1	10,508 23.4	334 0.7	3,561 7.9	364 0.8	44,878	- 8.9
1981	33,553 72.0	9,199 19.8	142 0.3	3,375 7.2	302 0.6	46,570	+ 3.8
1982	34,944 70.9	10,586 21.5	137 0.3	3,324 6.7	320 0.7	49,311	+ 5.9
1983 ²	41,185 78.2	7,623 14.5	138 0.3	3,553 6.7	160 0.3	52,658	+ 6.8
U.S.							
1974	354,200 77.0	89,571 19.5	1,161 0.3	8,110 1.8	6,661 1.4	459,704	+ 6.7
1975	352,062 76.6	90,703 19.7	1,700 0.4	7,897 1.7	7,386 1.6	459,748	0.0
1976	377,763 78.3	84,663 17.6	1,463 0.3	8,732 1.8	9,814 2.0	482,455	+ 4.9
1977	412,031 80.2	84,624 16.5	1,590 0.3	8,555 1.7	7,249 1.4	514,049	+ 6.5
1978	444,018 82.9	74,654 13.9	2,485 0.5	8,250 1.6	6,063 1.1	535,471	+ 4.2
1979	478,524 84.2	71,335 12.5	2,275 0.4	10,028 1.8	6,305 1.1	568,487	+ 6.2
1980	533,627 88.1	68,944 11.1	2,699 0.4	9,258 1.5	5,086 0.8	619,794	+ 9.0
1981	536,225 87.1	60,533 9.8	2,453 0.4	11,522 1.9	5,201 0.8	615,936	- 0.6
1982	630,818 88.8	59,243 8.3	2,371 0.3	12,994 1.8	5,097 0.7	710,523	+15.4
1983 ²	591,461 88.8	51,801 7.8	2,344 0.4	16,089 2.4	4,396 ³ 0.7	666,091	- 8.3

¹Held at bonded wineries and wine cellars. ²Excludes substandard wine held as distilling material or vinegar stock. ³Sum of figure for California and Other States may not equal U.S. total because U.S. totals shown are revised figures and revised figures are not available for individual states.

⁴Preliminary. ⁵Includes wine cooler product classified by Bureau of Alcohol, Tobacco and Firearms as "other wine."

Sources: Economic Research Department, Wine Institute; Bureau of Alcohol, Tobacco and Firearms and U.S. Treasury Dept.



BONDED WINERY PREMISES*, BY STATES
1974-1983

Year	Cal.	N.Y.	Ohio	Pa.	Ore.	Mich.	N.J.	Other States	All
1974	300	39	29	10	14	11	18	91	510
1975	321	39	32	13	15	10	15	102	548
1976	344	38	32	18	17	14	18	108	585
1977	352	38	34	22	19	18	15	121	619
1978	377	45	38	23	26	18	15	134	678
1979	406	48	40	26	31	18	15	140	734
1980	470	54	41	28	33	20	14	182	827
1981	540	65	44	29	36	22	15	183	934
1982	581	71	43	34	40	24	9	218	1028
1983	639	78	44	41	41	26	11	234	1114

*Includes experimental premises. *Includes: Ala. 1, Ark. 8, Ariz. 2, Colo. 1, Conn. 7, Del. 1, Fla. 7, Ga. 3, HI. 1, Idaho 5, Ill. 4, Ind. 9, Iowa 17, Ky. 5, La. 1, Main 1, Md. 9, Mass. 5, Miss. 2, Mont. 4, Mo. 27, N.C. 4, N.H. 1, N.M. 8, Ohio. 3, R.I. 4, S.C. 3, Tenn. 4, Tex. 15, Utah 1, Va. 23, Wash. 32, W.V. 4, Wisc. 12.
Source: Economic Research Department, Wine Institute; BATF.

PRODUCTION OF VERMOUTH, OTHER SPECIAL NATURAL AND SPARKLING WINES, BY STATES
1974-1983¹

Type of wine & year	Calif.	Mich.	N.J.	N.Y.	Ohio	Other States	All States
1,000 Gallons							
Vermouth							
1974	3,621	—	853	726	26	12	5,238
1975	4,058	1	979	768	16	19	5,845
1976	4,116	3	703	746	14	19	5,593
1977	4,635	2	835	695	17	18	6,202
1978	4,155	4	880	787	26	15	5,667
1979	4,480	3	574	888	23	22	6,026
1980	5,208	—	—	746	17	17	6,003
1981	4,402	—	—	589	21	20	5,032
1982	3,522	—	—	800	22	12	4,142
1983 ²	4,295	—	—	557	19	15	4,886

Other Special Natural

Not Over 14%³

1974	41,032					3,644	44,676
1975	46,974					2,191	49,164
1976	44,115					1,833	45,948
1977	31,013					1,896	32,909
1978	25,852					1,835	27,687
1979	22,051					1,681	23,732
1980	21,288					2,371	23,659
1981	19,712					2,460	22,172
1982	16,686					2,227	18,913
1983 ²	14,857					1,819	16,676

Other Special Natural

Over 14%⁴

1974	6,586					871	9,357
1975	11,037					434	11,470
1976	12,713					703	13,416
1977	12,520					519	13,039
1978	10,181					437	10,618
1979	10,178					353	10,531
1980	9,649					286	9,935
1981	10,382					525	10,907
1982	11,346					261	11,607
1983 ²	10,843					274	11,117

Total Other Special Natural

1974	49,718	300	402	2,060	—	1,551	54,033
1975	58,010	270	91	1,615	2	633	60,634
1976	56,828	243	52	1,164	—	1,067	59,364
1977	43,534	206	13	1,494	—	701	45,948
1978	38,033	194	12	1,510	10	535	38,305
1979	32,228	140	12	1,417	2	465	34,264
1980	30,937	137	10	1,765	6	738	33,614
1981	30,094	149	14	2,666	8	148	33,079
1982	28,012	92	25	2,187	11	173	30,579
1983 ²	25,700	81	18	1,826	14	174	27,793

Sparkling

1974	14,738	116	141	3,682	153	3	18,639
1975	15,670	92	114	3,326	157	8	19,370
1976	16,541	85	70	3,762	113	19	20,591
1977	19,084	75	31	3,522	135	27	22,854
1978	19,316	77	33	3,495	103	20	23,042
1979	18,656	77	24	4,590	66	24	23,474
1980	22,134	89	35	3,732	96	25	26,121
1981	26,602	108	9	3,911	69	27	30,726
1982	26,743	103	21	3,712	134	56	31,007
1983 ²	32,168	93	15	4,739	89	79	37,163

¹Sum of figures for specified states and Other States may not equal All States because totals shown are revised. Revisions for individual states are not available. ²Preliminary. ³Includes other special natural sparkling wine. ⁴Breakdown by alcohol content not available by individual states, other than California; specified states other than California included in "other states." Source: Economic Research Department, Wine Institute; Bureau of Alcohol, Tobacco and Firearms, U.S. Treasury Dept.

**STANDARD WINE REMOVED FROM FERMENTERS, BY STATES,
CROP YEARS 1979 through 1983^{1,2}**

	1979		1980		1981		1982		1983 ³		
	1,000	%	1,000	%	1,000	%	1,000	%	1,000	%	Change
	Gallons	of Total	Gallons	of Total	Gallons	of Total	Gallons	of Total	Gallons	of Total	1982-83
California	397,212	92.5	472,382	92.1	421,330	91.1	514,279	92.5	382,735	90.1	-25.6
New York	19,141 ⁴	4.5	29,796	5.8	30,304	6.6	29,101	5.2	29,123	6.9	+ 0.1
Washington	375	0.1	1,026	0.2	1,220	0.3	2,276	0.4	3,109	0.7	+36.8
Virginia	1,824	0.4	2,466	0.5	2,354	0.5	2,517	0.5	2,243	0.5	-10.9
Ohio	811	0.2	997	0.2	1,127	0.2	896	0.2	706	0.2	-21.2
Michigan	1,002	0.2	906	0.2	932	0.2	882	0.2	551	0.1	-37.5
New Jersey	149	0.0	241	0.0	335	0.1	315	0.1	540	0.1	+71.4
Oregon	342	0.1	318	0.1	308	0.1	558	0.1	502	0.1	-10.0
Arkansas	510	0.1	275	0.1	405	0.1	425	0.1	471	0.1	+10.0
Pennsylvania	168	0.0	179	0.0	255	0.1	269	0.1	316	0.1	+ 9.3
Missouri	341	0.1	345	0.1	195	0.0	262	0.1	262	0.1	- 7.1
Florida	102	0.0	97	0.0	107	0.0	128	0.0	222	0.1	+73.4
Wisconsin	83	0.0	86	0.0	81	0.0	71	0.0	75	0.0	+ 5.6
Iowa	78	0.0	85	0.0	78	0.0	75	0.0	73	0.0	- 2.7
Indiana	62	0.0	71	0.0	41	0.0	54	0.0	45	0.0	-16.7
Other States ⁵	7,049	1.6	3,401	0.7	3,573	0.8	4,021	0.7	3,847	0.9	- 4.3
Total	429,230	100.0	512,651	100.0	462,625	100.0	556,169	100.0	424,820	100.0	-23.8

¹Removals of still wine from fermenters. Excludes substandard wine produced as distilling material. Also excludes increases after fermentation by amelioration, sweetening, and addition of wine spirits. ²Crop year is July 1 to June 30. ³Percentages less than 0.05 percent are rounded to zero. ⁴March-June removals estimated. ⁵Possibly understated by as much as 10 million gallons. ⁶Includes states which remove significant quantities of wine but are not reported separately to avoid disclosure of individual operations.

Source: Economic Research Department, Wine Institute, from reports of Bureau of Alcohol, Tobacco, and Firearms, and U.S. Treasury Department.

mouth followed a similar pattern. U.S. vermouth production was 4.9 million gallons, with the respective shares of California and New York being 87.9% and 11.4%.

Primarily because of additions or deletions created by production, sales and distillation, the amount of wine inventories held by California wineries can vary significantly from year to year. While California wine sales were about the same in both

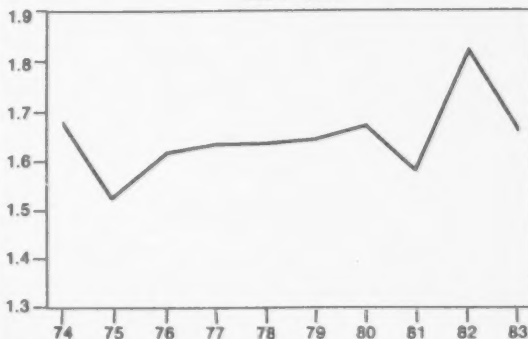
**86 bonded wine
premises were added
in 1983**

of the last two years, wine production was considerably higher in 1982 than it was last year, resulting in inventories for December 31, 1983, of 613.4 million gallons compared to the 661.2 million gallons held by California wineries on December 31, 1982. The inventory-shipment ratio for 1983 of 1.69, which represents the ratio of December 31 inventories to California wine shipments during the calendar year, was more in line with yearly inventory-shipment ratios during the past decade. In general, yearly inventory-shipment ratios have been in the 1.6 to 1.7 range; however, a large crush combined with slack wine sales can easily push the ratio higher, as happened in 1982 when the ratio was 1.84.

U.S. inventories, with California wine comprising over 92% of the total, were down 6.3% on December 31, 1983 compared to December 31, 1982. Of the 666.1 million gallons of U.S. wine inventories held on December 31, 1983, table wine represented 88.8% of the gallonage.

JULY, 1984

**California Wine Inventory-Shipment Ratio¹
1974-1983**



¹Ratio of wine inventories in California on December 31 to annual California wine shipments to all markets.

Source: Wine Institute.

Although U.S. wine sales have been fairly flat during the last two years, the number of bonded winery premises increased significantly in both years. In 1982 and 1983 there were respective additions of 94 and 86 premises. Last year California added 48 premises to reach a total of 639, 57% of all U.S. bonded winery premises. The largest number added elsewhere was 7 in the states of New York, Pennsylvania and Washing-

ton. Most of the new premises are small, and do not add appreciably to the industry's total capacity. Expansion of large premises at existing wineries accounts for most of the growth in cooperage capacity, which has increased from 900 million gallons in 1980 to 1,043 million gallons in 1983.

Last year, with the addition of Maine to the roster, 41 states had one or more bonded winery premises. ☐

30

1983 grape production well below 1982's record breaker

While the 1983 California grape crop did not match the huge 6.1 million ton harvest of 1982, its 4,695,000 tons came close to the 4.8 million ton average for the years 1978 to 1982. All indications are that in the coming years California grape production will continue on an upward trend. Between 1975 and 1983, bearing acreage of grapes in California increased by 13% to 644,513 acres, and it is estimated—based on actual non-bearing plantings—that by 1985 there will be an increase over 1983 acreage of 49,000 bearing acres. With yields also trending upward, it is likely that there will be more 6-million-ton crops in California's future.

U.S. grape production in 1983 was 5,281,200 tons, well below the record 6,554,300 tons of the previous year. California's 4,695,000 tons made up 88.9% of the total, and "other states" produced 586,200 tons, or 11.1%. The "other states" tonnage was well above 1982's 478,200 tons, and exceeded by 107,300 tons their 1978 to 1982 average tonnage of 478,900 tons. Washington and New York had above average crops, exceeding their 1982 production by 57,100 tons and 34,000 tons, respectively. The combined crops of Washington and New York accounted for 71.1% of the "other states" 1983 grape production. Pennsylvania (62,500 tons) and Michigan (60,000 tons) were also large producers among the "other states."

Concord grapes accounted for 78% of all grapes harvested in "other states" in 1983.

This variety dominates the acreage in the states of Michigan, New York, Pennsylvania, and Washington. Indications are that Washington added close to 3,000 acres of Concord in the late 1970s and early 1980s, which—along with Washington's recent expansion of its wine industry—may partially explain why the state has shown grape crop production increases in each of the last five years.

As a whole, states other than California do not have substantial non-bearing acreage, and it is unlikely that these states will experience the type of growth in grape production projected for California.

The biggest story in California in 1983 was not the size of the harvest, which was slightly below the 1978 to 1982 average of 4.8 million tons, but the way in which the harvest was utilized. Because California vintners had large wine inventories in the fall of 1983, the demand for raisin variety grapes for crushing was weak. More raisin variety grapes were dried than in past years, and the total grape tonnage used to make raisins (1,747,500 tons) set a peace-time record.

Production in all three varietal classes of grapes (wine, table, and raisin) in California was below 1982 levels, and only the table variety class among the three exceeded its 1978 to 1982 average. Table varieties, at 475,000 tons, were 21,000 tons above the 1978 to 1982 harvest average, while last year's production of wine varieties was 1,870,000 tons, or 75,000 tons below the

average harvest for the previous five years. For raisin varieties, the comparable figures are 2,350,000 tons produced and a drop of 4,000 tons below the five-year average.

The upward trend in per acre yields for wine and raisin varieties did not continue in 1983, as acreage increases in both varietal classes failed to result in higher levels of production. It is not unusual for a smaller than average crop to follow an exceptional growing year, and one should not read a great deal into 1983 yields. With the present maturity level of vineyards in California—unless there is an unforeseen change in prevailing viticultural practices—it is expected that the upward trend in yields will continue into the mid-1980s.

The yield for wine varieties in 1983 was 6.22 tons per acre, a 34.5% decrease from the record 8.54 ton per acre yield of 1982. Table and raisin varieties per acre yields, at 6.59 tons and 8.65 tons respectively, were down 27.0% and 26.3%.

The 1983 California grape crush of 2,300,680 tons was the smallest crush since the 2.31 million ton crush of 1978. Last year's crush of wine varieties in California (1,786,787 tons) represented 77.7% of all grapes crushed. Initially, the total California grape crush and the wine variety component were reported as 2,383,000 tons and 1,780,000 tons respectively and are so shown in the production and utilization tables. The revised figure for raisin varieties is 328,866 tons and for table varieties 185,008 tons.

In 1983 the crush of white grapes finally surpassed the crush of red grapes, reflecting shifting trends in recent years away from the planting of red varieties and toward both the planting of white varieties and the conversion of some reds to whites through grafting. Of last year's wine variety total, 54.7% were white varieties and 45.3% were red. In 1982 the comparable figures were 47.9% white and 52.1% red. Less than a decade ago, red variety winegrapes made up well over two-thirds of the crush.

In 1983 Colombard, Thompson, and Chenin Blanc were the three top varieties crushed; however, while the amounts of Colombard (456,031 tons) and Chenin Blanc (244,335 tons) crushed in 1983 were close to their 1982 levels, the Thompson crush fell from 698,425 tons to 286,661 tons, a 59% drop. The low crush of Thompsons was primarily due to the shifting of these grapes to raisin production.

California growers received an average price (revised data) of \$190.98 per ton for all grapes crushed in 1983, down 1.6% from the 1982 average of \$194.07 per ton. While the average price per ton to growers was down slightly in 1983 compared to 1982, there were significant increases and decreases in prices paid for certain varieties. The three most abundant varieties crushed had larger than average declines. Listed below are selected varieties which fell significantly in price:

Thompson, down 20% (from \$126.42 per ton to \$109.09); Chardonnay, down 10.5%

UNITED STATES GRAPES: PRODUCTION, QUANTITY CRUSHED, AVERAGE GROWER PRICE AND FARM VALUE, BY STATES 1982 and 1983

State	1983				1982			
	Total Prod.	Qty. Crushed ¹	Avg. Grower Price ²	Val. of Total Prod. ³	Total Prod.	Qty. Crushed ¹	Avg. Grower Price ²	Val. of Total Prod. ³
	Tons	Tons	Dollars Per Ton	1,000 Dollars	Tons	Tons	Dollars Per Ton	1,000 Dollars
California	4,695,000	2,263,000	261.00	1,224,352	6,076,000	3,123,300	231.00	1,246,827
Other States								
Arizona	14,800	0	1,060.00	15,330	15,100	0	991.00	14,964
Arkansas	10,000	9,700	252.00	2,520	10,500	10,300	238.00	2,504
Georgia	2,500	1,210	534.00	1,229	2,800	1,320	473.00	1,231
Michigan	60,000	58,200	184.00	11,862	58,500	56,500	201.00	11,768
Massachusetts	3,800	3,300	347.00	1,249	2,500	2,200	320.00	800
New York	191,000	186,500	226.00	43,228	157,000	154,000	234.00	36,777
North Carolina	3,000	2,350	324.00	773	4,500	3,600	321.00	1,444
Ohio	11,500	11,200	199.00	2,285	9,000	8,700	227.00	2,040
Pennsylvania	62,500	61,500	170.00	10,646	47,000	45,100	225.00	10,585
South Carolina	1,500	1,200	303.00	455	2,400	2,000	288.00	583
Washington	228,000	224,000	155.00	34,773	188,900	188,200	185.00	31,299
Total Other States	586,200	558,180	213.00	124,349	478,200	451,920	236.00	114,095
Total U.S.	5,281,200	2,842,180	255.00	1,348,702	6,554,200	3,575,220	232.00	1,360,922

¹Crushed for all purposes. ²For all grapes sold. Prices for the fresh component in California represent returns at the first delivery point. In other states they represent average prices producers received at the point of first sale, except for Oregon and Washington where they are equivalent returns at the packing house door. Prices for the processing components (i.e., canned, dried, crushed) represent equivalent returns for fruit delivered to the processing plant door, except in California where grapes for crushing and raisins are equivalent returns at growers' first delivery point in the district where grown. Calculated based on negotiated free tonnage price for raisins. ³Value of vitified production; does not include value of production losses. Calculated based on negotiated free tonnage price for raisin component.

Sources: Economic Research Department, Wine Institute; California Crop and Livestock Reporting Service and Crop Reporting Board, U.S. Department of Agriculture.

(from \$1,094.23 to \$979.79); Chenin Blanc, down 11.1% (from \$216.60 to \$192.63); Colombard, down 8.1% (from \$170.46 to \$156.66); Sauvignon Blanc, down 18.1% (from \$595.04 to \$487.11); White Riesling, down 22.3% (from \$554.82 to \$430.83); Cabernet Sauvignon, down 14.8% (from \$541.44 to \$461.44); and Zinfandel, down 9.7% (from \$297.93 to \$268.96).

Grape varieties for which growers received higher average prices last year than in 1982 include: Burger, \$143.92 in 1982 and \$150.60 in 1983; Pinot Noir, \$492.76 and \$515.99; and Rubired, \$103.66 and \$113.92.

It is notable that the price for grapes remained low even though the crush was small, and that in general the varieties used for premium wines were not immune from the lower price structure.

The preliminary report of raisin production for 1983 was 390,200 tons, 32.1% more than the 295,300 tons produced in 1982. Because of the high 1983 production, there has been a significant buildup of raisin inventories. A raisin industry price-cutting strategy, which may have originally reported grower returns, has recently been implemented in an attempt to reduce the over-supply. Average grower returns and farm value of the grape crop as shown in the accompanying tables are calculated on a negotiated price for raisin tonnage designated for free market disposition. The new price cutting strategy will significantly alter these preliminary figures.

For the second consecutive year raisin shipments were down 2.6%. Raisin shipments in crop year 1982 were 255,000 tons, natural condition basis, 6,900 tons less than the 261,900 tons shipped in crop year 1981. Shipments to the U.S. and Canada were up 1.5 percent, from 193,000 tons to 196,800 tons; however, for the third year in a row exports declined. Exports were down 9.4% in crop year 1982 to 54,800 tons. In the fall of 1983, the raisin industry took steps to implement an export incentive program as well as an advertising and promotion campaign in Western Europe. Whether these actions will reverse the trend remains to be seen. The (Cont. pg. 46)

UNITED STATES GRAPE PRODUCTION AND COMMERCIAL CRUSH, BY STATES

1982 and 1983

Commercial Crush¹

Year and State	Total Prod.		By Wineries and Distilleries		By Other Proc. Facilities ²		Total Crushed Quantity	% of Total Production
	1,000 Tons	1,000 Tons	% of Crush	1,000 Tons	% of Crush	1,000 Tons	% of Crush	
1982								
California ³	4,695.0	2,283.0	100.0	0.0	0.0	2,283.0	48.8	
All Varieties	1,870.0	1,780.0	100.0	0.0	0.0	1,780.0	95.2	
Wine Varieties	475.0	180.0	100.0	0.0	0.0	180.0	37.9	
Table Varieties	2,350.0	323.0	100.0	0.0	0.0	323.0	13.7	
Raisin Varieties	14.6	0.0	—	0.0	—	0.0	0.0	
Arizona	10.0	3.2	33.0	6.5	67.0	9.7	97.0	
Arkansas	60.0	—	—	—	—	58.2	97.0	
Michigan	3.6	2.3	63.2	1.1	31.5	3.3	91.7	
Missouri	191.0	96.0	51.5	90.5	48.5	186.5	97.8	
New York	3.0	2.4	100.0	0.0	0.0	2.4	80.0	
North Carolina	11.5	3.0	28.8	8.2	73.2	11.2	97.4	
Ohio	62.5	6.0	9.8	55.5	90.2	61.5	98.4	
Pennsylvania	226.0	20.3	9.1	203.7	90.9	224.0	99.1	
Washington	4.0 ⁴	5.6 ⁵	9.2	55.0 ⁶	90.8	2.4 ¹	60.0	
Other States	5,261.2	2,421.7	85.2	420.5	14.8	2,842.2	53.8	
United States								
1983								
California ³	6,076.0	3,123.3	100.0	0.0	0.0	3,123.3	51.4	
All Varieties	2,402.0	2,066.0	100.0	0.0	0.0	2,066.0	86.8	
Wine Varieties	612.0	283.3	100.0	0.0	0.0	283.3	43.0	
Table Varieties	3,062.0	774.0	100.0	0.0	0.0	774.0	25.3	
Raisin Varieties	15.1	0.0	—	0.0	—	0.0	0.0	
Arizona	10.5	3.0	29.1	7.3	70.9	10.3	98.1	
Arkansas	58.5	—	—	—	—	56.5	96.6	
Michigan	2.5	1.3	59.1	0.9	40.9	2.2	88.0	
Missouri	157.0	67.3	43.8	86.5	56.2	154.0	98.1	
New York	4.5	3.6	100.0	0.0	0.0	3.6	80.0	
North Carolina	9.0	2.1	23.6	6.7	76.4	8.7	96.7	
Ohio	47.0	7.3	16.2	37.8	83.8	45.1	96.0	
Pennsylvania	168.9	13.0	7.7	155.2	92.3	166.2	98.6	
Washington	5.2 ¹	6.3 ²	10.5	53.5 ³	89.5	3.3 ¹	63.5	
Other States	6,554.2	3,227.3	90.2	347.9	9.8	3,575.2	54.8	
United States								

¹State figures except California are by state where grown and include grapes crushed at facilities in other states. California figures include only grapes crushed at California facilities. ²Crushed mostly for unfermented juice, jams, jellies, etc. Some of the processed grape material may be shipped to wineries and distilled spirits plants. ³Includes a minor amount crushed by facilities other than wineries or distilleries but not reported separately. ⁴Breakdown of crush not reported to avoid disclosure of individual operations. Quantity included in "other states." ⁵Georgia and South Carolina. ⁶Also includes Michigan.

Sources: Economic Research Department, Wine Institute, from reports of Crop Reporting Board, U.S. Department of Agriculture.

CALIFORNIA GRAPES: PRODUCTION, BEARING ACREAGE AND YIELD PER ACRE BY VARIETAL CLASSES, CROP YEARS 1974 to 1983

Year	Production				Bearing Acreage				Yield Per Acre			
	Wine	Table	Raisin	Total	Wine	Table	Raisin	Total	Wine	Table	Raisin	Total
	1,000 Tons				Acres				Tons			
1974	1,238	586	1,970	3,794	180,950	96,750	241,350	489,050	6.84	8.73	8.16	7.76
1975	1,313	434	2,201	3,948	225,160	83,130	237,900	526,190	5.83	6.88	9.25	7.50
1976	1,323	405	2,250	3,978	292,646	64,709	243,120	600,475	4.52	6.26	9.25	6.62
1977	1,563	488	1,935	3,986	317,918	63,487	241,059	622,464	4.92	7.89	8.03	6.40
1978	1,706	393	1,918	4,017	313,654	62,497	240,446	616,597	5.44	6.29	7.98	6.51
1979	1,821	417	2,320	4,558	292,503	61,839	239,523	593,865	6.23	6.74	9.69	7.68
1980	2,004	428	2,892	5,124	290,686	62,506	243,438	596,630	6.89	6.85	11.06	8.59
1981	1,794	420	1,779	3,993	278,935	63,481	249,665	592,081	6.43	6.62	7.13	6.74
1982	2,402	612	3,062	6,076 ¹	291,413	67,783	260,780	619,976	8.24	9.03	11.74	9.80
1983 ²	1,870	475	2,350	4,695	300,644	72,041	271,828	644,513	6.22	6.59	8.65	7.28

¹Preliminary ²In 1982, 690,000 tons were unutilized.

Sources: Economic Research Department, Wine Institute; California Crop and Livestock Reporting Service, Crop Reporting Board and U.S. Department of Agriculture

JULY, 1984

41

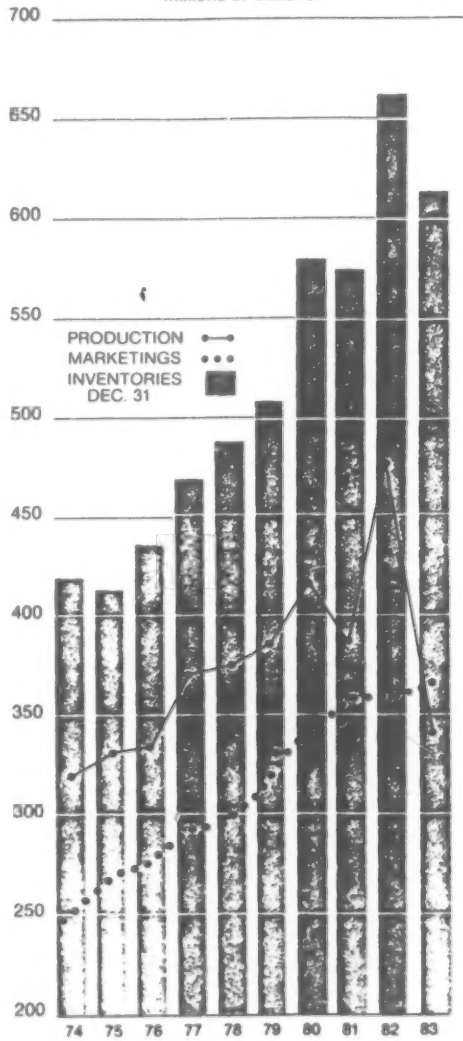
CALIFORNIA GRAPES: PRODUCTION, UTILIZATION AND GROWER RETURNS 1974 to 1983

Varietal Class & Year	Production and Utilization ¹					Grower Returns ²					All Grapes	
	Fresh	Canned	Dried ³	Crushed	Total Quantity	Change from last year	Fresh	Canned	Dried ³	Crushed	Returns	Change from last year
	1,000 Tons					Percent	Dollars per Ton					Percent
WINE												
1974	57.0	—	—	1,181.0	1,238.0	+19.0	168.00	—	—	131.00	133.00	-36.1
1975	78.6	—	—	1,236.4	1,313.0	+ 6.1	160.00	—	—	107.00	110.00	-17.3
1976	80.0	—	—	1,243.0	1,323.0	+ 0.8	165.00	—	—	134.00	136.00	+23.6
1977	101.0	—	—	1,462.0	1,563.0	+18.1	183.00	—	—	174.00	175.00	+28.7
1978	65.0	—	—	1,641.0	1,706.0	+ 9.1	240.00	—	—	209.00	210.00	+20.0
1979	88.0	—	—	1,733.0	1,821.0	+ 6.7	184.00	—	—	215.00	214.00	+ 1.9
1980	82.0	—	—	1,922.0	2,004.0	+12.0	203.00	—	—	210.00	210.00	- 1.9
1981	89.0	—	—	1,725.0	1,794.0	-10.5	228.00	—	—	268.00	266.00	+26.7
1982	66.0	—	—	2,086.0	2,152.0	+20.0	144.00	—	—	220.00	218.00	-18.0
1983 ⁴	90.0	—	—	1,780.0	1,870.0	-13.1	213.00	—	—	225.00	224.00	+ 2.8
TABLE												
1974	221.2	—	2.6	362.2	586.0	+23.4	240.00	—	161.00	64.70	131.00	-24.7
1975	227.2	—	2.6	204.0	434.0	-25.9	370.00	—	149.00	50.50	216.00	+66.4
1976	188.5	—	1.5	215.0	405.0	- 8.7	369.00	—	280.00	82.80	217.00	- 0.5
1977	205.0	—	2.0	281.0	488.0	+20.5	502.00	—	264.00	99.80	269.00	+24.0
1978	192.0	—	1.0	200.0	393.0	-19.5	552.00	—	481.00	140.00	342.00	+27.1
1979	228.0	—	4.9	184.1	417.0	+ 6.1	436.00	—	267.00	155.00	310.00	- 9.4
1980	224.0	—	8.0	196.0	426.0	+ 2.6	649.00	—	224.00	144.00	410.00	+32.3
1981	230.0	—	8.0	182.0	420.0	- 1.9	639.00	—	322.00	195.00	440.00	+ 7.3
1982	311.2	—	17.5	263.3	592.0	+41.0	515.00	—	235.00	149.00	344.00	-21.8
1983 ⁴	285.5	—	9.5	180.0	475.0	-19.8	494.00	—	231.00	150.00	358.00	+ 4.1
RAISIN												
1974	133.5	61.2	1,021.2	754.1	1,970.0	-47.0	307.00	133.00	141.00	76.00	127.00	- 3.8
1975	169.7	52.7	1,249.6	729.0	2,201.0	+11.7	367.00	120.00	151.00	59.00	136.00	+ 7.1
1976	173.0	48.0	1,274.0	755.0	2,250.0	+ 2.2	400.00	137.00	157.00	83.80	149.00	+ 9.6
1977	155.0	54.0	1,132.0	594.0	1,935.0	-14.0	487.00	159.00	184.00	99.80	182.00	+22.1
1978	155.0	55.0	1,006.0	702.0	1,916.0	- 0.9	500.00	214.00	228.00	153.00	221.00	+21.4
1979	184.0	60.0	1,376.0	700.0	2,320.0	+21.0	464.00	226.00	253.00	151.00	238.00	+ 7.7
1980	239.0	63.0	1,612.0	778.0	2,692.0	+16.0	571.00	229.00	230.00	144.00	235.00	- 1.3
1981	204.0	42.0	1,024.0	509.0	1,779.0	-33.9	467.00	225.00	329.00	199.00	305.00	+29.8
1982	303.0	35.0	1,530.0	774.0	2,642.0	+48.5	431.00	203.00	220.00	127.00	217.00	-28.9
1983 ⁴	254.0	35.0	1,738.0	323.0	2,350.0	-11.1	413.00	178.00	281.00 ⁵	105.00	270.00	+24.4
ALL GRAPES												
1974	411.7	61.2	1,023.6	2,297.3	3,794.0	- 2.5	252.00	133.00	141.00	102.00	130.00	-17.2
1975	473.5	52.7	1,252.4	2,169.4	3,948.0	+ 4.1	335.00	120.00	151.00	85.60	137.00	+ 5.4
1976	441.5	48.0	1,275.0	2,213.0	3,978.0	+ 0.8	362.00	137.00	157.00	112.00	152.00	+10.9
1977	461.0	54.0	1,134.0	2,337.0	3,986.0	+ 0.2	427.00	159.00	184.00	146.00	189.00	+24.3
1978	412.0	55.0	1,007.0	2,543.0	4,017.0	+ 0.8	483.00	214.00	228.00	186.00	228.00	+20.6
1979	500.0	60.0	1,380.9	2,617.1	4,558.0	+13.5	402.00	228.00	253.00	194.00	236.00	+ 3.5
1980	545.0	63.0	1,620.0	2,696.0	5,124.0	+12.4	548.00	229.00	230.00	188.00	240.00	+ 1.7
1981	503.0	42.0	1,032.0	2,416.0	3,993.0	-22.1	513.00	225.00	329.00	248.00	302.00	+25.8
1982	680.2	35.0	1,547.5	3,123.3	5,386.0	+34.9	442.00	203.00	220.00	191.00	231.00	-23.5
1983 ⁴	629.5	35.0	1,747.5	2,263.0	4,695.0	-12.8	421.00	178.00	281.00 ⁵	202.00	261.00 ⁵	+13.0

¹Quantity used on farms included in "Fresh." Quantity "Crushed" is for all purposes, fresh grapes only. ²Average grower returns for all grapes sold. Figures for grapes shipped fresh and canned represent equivalent returns for bulk fruit growers first delivery point. Returns for grapes dried and crushed represent equivalent returns for fruit delivered to the processor, except for grapes or raisins sold out-of-district. Equivalent returns for out-of-district sales exclude transportation cost incurred outside the growing district. ³Includes fresh weight equivalent of substandard raisins used for wine spirit production, and fruit lost in the field due to weather. ⁴Average return from (1) growers' sales of raisins meeting federal raisin marketing order grade standards and (2) growers' sales of substandard raisins. Does not include growers' rain damage insurance. ⁵Preliminary. ⁶Calculated on negotiated free tonnage price. Does not represent grower returns for all raisins produced in 1983. ⁷Calculated based on negotiated free tonnage price for raisin component.

Sources: Economic Research Department, Wine Institute, California Crop and Livestock Reporting Service and Crop Reporting Board, U.S. Department of Agriculture.

**CALIFORNIA GROSS WINE PRODUCTION,
MARKETINGS & INVENTORIES 1974-1983**
Millions of Gallons



COMMERCIAL CRUSH OF CALIFORNIA GRAPES BY DISTRICTS WHERE GROWN AND VARIETIES¹ 1992[illegible][illegible]

*Chardonnay less than 25 tons are not reported by varieties but are included in district and state totals. Variety data in one or more districts are not shown in order to avoid disclosure of individual operations, but they are generally included in district and state sum totals. Pinching house cuts are included in all main and all table grape totals.

Source: Customs Department of Food and Agriculture

California raisin industry's market position in the European Common Market has been slipping because of subsidized competition from raisins produced in other countries.

1983 was another good year for shipments of California fresh grapes. Although last year's 629,500 tons of fresh grape shipments

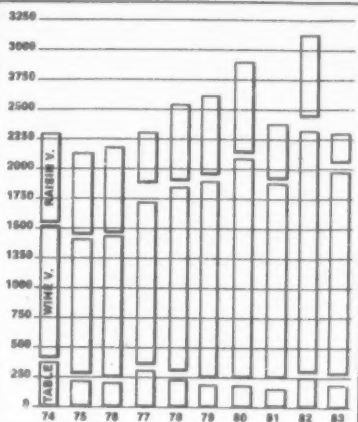
were down from the 1982 total of 680,200 tons, the 1983 shipments were 28.8% higher than the average shipments for the previous five years. Fresh grape shipments go primarily for fresh consumption; however, there are also shipments which are used by home winemakers. The fresh grape category

has been strongly promoted by the California Table Grape Commission, and marketers of fresh grapes have been able to take advantage of the public's increasing interest in fresh produce.

Average grower prices for all grapes shipped fresh have tailed off in the last few years, dropping from \$548 a ton in 1980 to \$421 a ton in 1983. The price decline from 1982 to 1983 went from \$442 per ton to \$421 per ton. Lower prices have probably contributed to the success the fresh sector has had in marketing its product. □

CALIFORNIA CRUSH 1974-1983

Thousands
of Tons



CALIFORNIA RAISIN SHIPMENTS

1973 to 1982 Crop Year

Natural Condition (Sweetbox) Basis

1,000 Tons

Crop Year	Domestic	Export	Total	U.S. Dept. of Agr.	All Raisins
1973	158.0	45.0	203.0	—	203.0
1974	156.4	62.3	218.7	—	218.7
1975	185.6	59.4	245.0	8.5	253.5
1976	152.0	38.6	190.6	—	190.6
1977	159.8	52.3	212.1	—	212.1
1978	119.7	22.0	141.7	2.6	144.3
1979	166.3	71.5	237.8	8.3	246.1
1980	195.1	69.0	264.1	4.7	268.8
1981	193.8	60.5	254.3	7.6	261.9
1982	196.8	54.8	251.6	3.4	255.0

Source: Economic Research Department, Wine Institute; Raisin Administrative Committee.

U.S. wine exports fell for second consecutive year

In 1983 United States wine exports fell for the second consecutive year, decreasing 16.4%. The 1982 decline was 14.0%. Prior to 1982, U.S. commercial wine exports had grown steadily for a decade, increasing from a modest 377.8 thousand gallons in 1971 to a peak of 10.6 million gallons in 1981.

Canada, the leading export customer for U.S. wines with a market share of 47.9%, imported 835.7 thousand fewer gallons in 1983 than in 1982. Total U.S. wine shipments to Canada amounted to 3.6 million gallons, a drop of 18.7% from the previous year. The United Kingdom ranks second as a market for U.S. wines, and in 1983 was the only other country to import more than 1 million gallons. The U.S. shipped 1.2 million gallons of wine to the United Kingdom in each of the last two years. Since 1975, U.S. wine sales to the U.K. have climbed from an insignificant 7,268 gallons

to their present level.

During 1982 eight countries imported over 900,000 gallons of U.S. wine; in 1983 only 5 nations could make this claim. In addition to Canada and the United Kingdom, other countries which imported more than 900,000 gallons of U.S. wine in 1983, and the percent change from 1982, are: Japan, 415,859 gallons and +49.5%; Bahamas, 231,841 gallons and -7.6%; and Belgium and Luxembourg, 217,848 gallons and -3.3%.

While U.S. wine exports to most countries are bottled, Canada receives most of its wine in bulk. Because of this, the per gallon value (F.A.S. basis) for U.S. wine exports to Canada in 1983 was \$2.28 compared to \$6.01 for all other countries.

The dollar value of U.S. wine sales to Canada represented 25.8 percent of total dollar value from U.S. wine sales to all

countries, but in terms of gallonage Canada's 1983 market share for U.S. wine exports was 47.9%. The average values per gallon in 1983 for other key U.S. markets were: United Kingdom, \$5.81; Japan, \$6.00; Bahamas, \$4.71; and Belgium and Luxembourg, \$6.82. The average value per gallon for all U.S. commercial wine exports in 1983 was \$4.22, almost the same as the 1982 average value of \$4.30.

The total value of U.S. wine exports declined 16%, from \$38.2 million in 1982 to \$32.1 million in 1983. Since during the same time period the value of foreign wine shipped to the U.S. rose \$71.8 million to \$853.7 million, the wine trade deficit grew to \$821.6 million in 1983. The trade deficit for wine has enlarged in each of the past five years, and last year was 34.8% greater than the 1979 deficit. The ratio of wine imports to exports, on both a gallonage basis and a value basis, increased in favor of imports. On a gallonage basis the ratio was 17.2 to 1, while on a value basis it was 26.6 to 1.

While a breakdown of wine exports by state is not available, it is reasonable to assume that about 95% of U.S. commercial wine exports are from California. ☐

EXPORTS OF WINE FROM THE UNITED STATES, BY COUNTRIES OF DESTINATION
1979 - 1983¹

Country	Gallons	1979	1980	1981	1982	1983	% of 1983 Total	% Change 1982-83	1983 Rank
Wine Exports ²									
Bahamas	383,906	339,718	269,448	250,819	231,841	3.0	- 7.6	4	
Barbados	25,648	39,995	43,474	34,887	33,124	0.4	- 5.0	21	
Belgium & Luxembourg	57,995	225,509	348,878	325,290	217,848	2.9	- 3.3	8	
Bermuda	112,784	150,510	114,317	90,961	81,948	1.1	- 9.9	12	
Canada	3,106,194	4,812,792	5,547,507	4,478,774	3,641,107	47.9	-18.7	1	
Cayman Islands	26,852	38,078	32,287	16,823	22,370	0.3	32.2	28	
Colombia	77,443	51,708	401,927	289,812	172,475	2.3	-40.5	7	
Denmark	21,147	26,819	70,113	111,427	21,483	0.3	-80.7	28	
France	18,724	52,487	144,200	45,785	85,073	0.9	42.1	17	
Guatemala	4,407	4,054	7,483	4,842	12,525	0.2	158.7	33	
Haiti	16,962	26,871	33,195	30,889	37,326	0.5	20.9	20	
Honduras	10,602	22,347	10,839	7,707	9,188	0.1	18.2	35	
Hong Kong	20,967	69,953	88,839	78,741	70,830	0.9	-10.0	18	
Iceland	20,748	18,662	31,021	84,384	67,199	0.9	-19.2	16	
Indonesia	8,555	23,730	36,050	28,143	29,253	0.4	-21.9	23	
Jamaica	7,718	4,195	14,840	17,231	19,419	0.2	- 4.7	31	
Japan	136,440	207,318	343,817	278,252	415,859	5.5	+49.5	3	
L. S. W. Is.	113,984	142,718	193,388	149,354	178,537	2.3	19.5	6	
Malaysia	18,485	29,508	18,814	34,772	22,575	0.3	-35.1	25	
Mexico	38,163	57,540	79,873	83,159	13,911	0.2	-88.1	32	
Netherlands	53,667	82,077	123,808	35,020	39,577	0.3	-24.2	24	
N. Antilles ³	262,998	218,198	205,530	228,929	189,909	2.1	-30.1	8	
Panama	40,313	97,821	104,354	127,835	149,047	2.0	16.8	6	
Peru	6,361	8,784	58,597	35,714	19,049	0.3	-48.7	29	
Philippines	59,592	89,798	82,848	46,804	74,054	1.0	58.2	14	
Singapore	22,496	33,851	75,414	57,317	74,129	1.0	29.3	13	
South Africa	70	0	18,108	33,384	9,786	0.1	-70.7	34	
Sweden	2,280	8,874	61,178	31,531	47,128	0.8	49.5	19	
Switzerland	30,125	38,152	118,911	129,045	48,569	0.6	-82.4	18	
Taiwan	13,897	12,820	8,591	12,458	18,367	0.2	31.4	30	
Thailand	4,327	11,965	7,754	21,829	22,163	0.3	2.3	27	
Trinidad Tobago	121,827	113,080	78,548	115,733	140,816	1.9	21.7	10	
United Kingdom	82,315	530,863	1,106,741	1,177,876	1,179,199	15.6	0.1	2	
Venezuela	8,130	20,799	74,280	190,225	30,640	0.4	-83.8	22	
West Germany	15,102	178,518	337,308	249,438	130,809	1.7	-47.6	11	
Other Countries ⁴	271,785	320,321	419,809	279,871	120,834	1.8	-56.8		
Total	5,184,329	7,869,014	10,582,888	8,102,481	7,609,045	100.0	-19.4		

¹Excludes shipments such as: shipments to Puerto Rico, shipments to Virgin Islands and other U.S. possessions, shipments abroad to U.S. armed forces for their use, to U.S. armed forces post exchanges and to commissaries maintained for use of U.S. government personnel, and shipments for use of vessels and airplanes engaged in foreign trade. ²Does not include any adjustment for wine re-exported to other countries. Includes Curacao, Aruba, Bonaire, Saba, St. Eustache (St. Eustace), St. Martin (southern part). ³Export of wine to each of these other countries does not exceed 9,150 gallons in 1983.

Source: Economic Research Department, Wine Institute; Bureau of the Census, U.S. Department of Commerce, BATF, and U.S. Treasury Department.

EXPORTS OF UNITED STATES PRODUCED WINE
BY COUNTRIES OF DESTINATION¹
1983 and 1982

Country	All Wine ²		Percent Change
	1983 Gallons	1982	
Canada	3,641,107	4,476,774	-18.7
United Kingdom	1,179,199	1,177,676	+0.1
Japan	415,859	278,252	+49.5
Bahamas	231,841	250,819	-7.6
Belgium & Luxembourg	217,848	225,290	-3.3
L.W. & W.W. Islands	178,537	149,354	+19.5
Colombia	172,475	289,912	-40.5
N. Antilles ³	159,909	228,929	-30.1
Panama	149,047	127,635	+16.8
Trinidad-Tobago	140,816	115,733	+21.7
W. Germany	130,509	249,438	-47.6
Bermuda	81,946	90,961	-9.9
Singapore	74,129	57,317	+29.3
Philippines	74,054	46,604	+58.2
Hong Kong	70,630	78,741	-10.0
Iceland	67,199	56,364	+19.2
France	65,073	45,785	+42.1
Switzerland	48,569	129,045	-62.4
Sweden	47,128	31,531	+49.5
Haiti	37,326	30,869	+20.9
Barbados	33,124	34,867	-5.0
Venezuela	30,840	190,225	-83.8
Indonesia	28,253	36,143	-21.8
Netherlands	26,577	35,080	-24.2
Malaysia	22,575	34,772	-35.1
Cayman Islands	22,370	18,923	+32.2
Thailand	22,136	21,629	+2.3
Denmark	21,482	111,427	-80.7
Paru	19,049	35,714	-46.7
Taiwan	16,367	12,458	+31.4
Jamaica	16,419	17,231	-4.7
Other Countries	166,352	418,763	-60.3
Total	7,609,045	9,102,461	-16.4

¹Does not include the following: Shipments to Puerto Rico and U.S. possessions, shipments abroad to U.S. Armed Forces for their use, including shipments to U.S. Armed services post exchanges, etc.; and shipments for use of vessels and airplanes engaged in foreign trade. ²Does not include any adjustment for wines re-exported to other countries. ³Includes grape table wine, dessert wine, sparkling wine, vermouth and other special natural. ⁴Curacao, Aruba, Bonaire, Saba, St. Eustache (St. Eustatius), St. Martin (southern part).

Sources: Economic Research Department, Wine Institute, from reports of Bureau of the Census, U.S. Department of Commerce.

U.S. BALANCE OF TRADE FOR WINE AND FOR ALL MERCHANDISE, 1979-1983

Item	Units	1979	1980	1981	1982	1983 ¹
Wine						
Quantity						
Imports	1,000 Gallons	92,169	102,507	114,713	122,089	131,006
Exports	1,000 Gallons	5,184	7,869	10,583	9,102	7,600
Trade Deficit	1,000 Gallons	87,005	94,638	104,130	112,987	123,397
Ratio Exports to Imports		1:17.8	1:13.0	1:10.8	1:13.4	1:17.2
Value ²						
Imports						
Total Value	Million Dollars	828.7	889.1	759.1	781.9	853.7
Value Per Gallon	Dollars	8.82	8.72	6.62	6.40	6.52
Exports						
Total Value	Million Dollars	19.2	29.8	42.1	38.2	32.1
Value Per Gallon	Dollars	3.68	3.79	3.98	4.20	4.22
Trade Deficit	Million Dollars	809.5	859.3	717.0	743.7	821.6
Ratio Exports to Imports		1:32.7	1:23.1	1:18.0	1:20.5	1:26.6
All Merchandise						
Value ²						
Imports	Million Dollars	211,819	249,575	284,143	247,606	260,605
Exports	Million Dollars	184,473	224,237	236,254	211,217	200,009
Trade Deficit	Million Dollars	27,346	25,338	47,889	36,389	60,596
Ratio Exports to Imports		1:1.1	1:1.1	1:1.1	1:1.2	1:1.3
Part Trade Deficit for Wine Is of Deficit for all Merchandise	Percent	2.2	2.6	2.6	2.0	1.4

¹Preliminary. ²Represents f.a.s. (free alongside ship) value which generally is equivalent to value at U.S. port of exportation for exports and value at foreign port of exportation for imports. f.a.s. value is based on transaction cost including inland transportation costs. The value excludes the costs of loading the merchandise aboard the exporting carrier and any subsequent costs beyond the port of exportation. ³Adjusted to balance of payments basis, excluding "military."

Sources: Economic Research Department, Wine Institute; Bureau of the Census and Bureau of Economic Analysis, U.S. Department of Commerce.

Tops in production and consumption are France and Italy

The International Wine Office in Paris reported world wine production was 9.7 billion gallons in 1982. California's estimated gross wine production of 470 million gallons placed it sixth among wine-producing nations. Gross wine production is the quantity of standard wine removed from fermenters plus increases after fermentation by amelioration, sweetening, and addition of wine spirits, less withdrawals of wine for distillation. Total U.S. wine production of 515 million gallons in 1982 translates to a 5.3% share of world production. Countries ahead of the U.S. in 1982 were: France, 2,092.3 million gallons; Italy, 1,919.2 million gallons; Spain, 984.4 million gallons; USSR, 914.7 million gallons; and Argentina, 660.0 million gallons.

Preliminary figures from the International Wine Office indicate that 1983 European wine production, including that in the USSR, fell 9%, a 700 million gallon decrease from the 1982 total for Europe of 7.7 billion gallons. In the last three years Italy and France have been trading places as the top wine-producing nation. Italy ranked first in 1981, with wine production of 1,862.5 million gallons; France was on top in 1982, with 2,092.3 million gallons produced; and preliminary data indicates that Italy will again regain the leading position in 1983, with production of 2,015.7 million gallons compared to France's 1,799.7 million gallons. Italy and France combined account for about 40% of world wine production.

California's estimated wine production in 1983 fell to 345 million gallons, its lowest production since the mid-1970s. Among the other key wine-producing nations, West Germany stands out with two consecutive years of above average grape harvests, resulting in over 400 million gallons of wine production in 1982 and over 300 million gallons in 1983. During the 1970s, West Germany's average yearly wine production was slightly over 200 million gallons.

While France and Italy remain the leading nations in per capita wine consumption, over the years both nations' wine consumption rates have decreased dramatically. In 1970 Italy's per capita consumption was 29.32 gallons, while in 1982 it was 21.87 gallons. France's per capita consumption dropped from 28.83 gallons in 1970 to 22.72 gallons in 1982. In contrast to the patterns in France and Italy, wine consumption has been trending upward in Northern Europe and North America. For example, U.S. per capita wine consumption was 1.31 gallons in 1970 and 2.22 gallons in 1982, an increase over that time period of 69%. During the same time span, per capita wine consumption rose 167% in Denmark; 151% in the United Kingdom; 53% in West Germany; and 22% in Luxembourg. 

WINES & VINES

PER CAPITA CONSUMPTION OF WINE,
BY COUNTRIES

Country	1962	1966	1975	1978	1985
	Gallons				
France	22.72	24.04 ^a	27.36	28.53	31.07
Italy	21.57	21.13	26.40	29.32	28.80
Portugal	20.70	18.49	23.71	20.26	28.77
Argentina	19.45	20.15	22.11	24.25	22.67
Spain	15.06	15.85	19.55	16.25	16.64
Chile	14.45	13.29	11.48	11.60	14.95
Switzerland	12.80	12.44	11.44	10.30	10.12
Luxembourg	12.23	12.73	10.90	10.00	10.00
Greece	11.62	11.87	10.04	10.57	10.38
Austria	9.25	9.38	9.40	9.99	7.87
Hungary	7.85	9.25	9.77	9.96	8.67
Romania	7.63	7.63	6.72	6.10	7.71
Yugoslavia	7.45	7.45	7.56	7.11	6.21
Uruguay	6.60	6.60	6.63	6.67	6.00
West Germany	6.55	6.74	6.13	4.26	3.88
Bulgaria	5.81	5.81	5.28	4.91	5.47
Australia	5.05	4.80	2.96	2.25	1.27
Belgium	4.87	3.79	4.49	3.17	2.27
Denmark	4.17	3.38	3.03	1.56	1.08
U.S.S.R.	3.80	3.80	3.53	3.01	2.80
Holland	3.49	3.14	2.43	1.38	0.89
Czechoslovakia	3.17	3.17	2.81	2.60	1.35
Cyprus	2.12	2.58	1.64	2.17	3.17
Sweden	2.77	2.54	2.20	1.89	1.14
Poland	2.59	2.59	1.95	1.48	1.27
S. Africa	2.52	2.40	2.77	2.96	1.85
Canada	2.32	2.21	1.76	0.58	0.73
United States	2.22	2.21	1.71	1.31	0.96
United Kingdom	1.91	1.97	1.24	0.76	0.58
Finland	1.36	1.26	1.35	1.08	0.70

^aPer capita consumption data are not available for a few countries which are believed to have between 1 and 3 gallons consumption per person.

Sources: Economic Research Department, Wine Institute; International Wine Office, Paris; Bureau of Alcohol, Tobacco and Firearms; and Bureau of the Census.

WINE PRODUCTION IN THE WORLD BY SELECTED COUNTRIES, 1977-1982

Country	1962	1961	1960	1978	1978	1977
	1,000 Gallons					
France	2,092.3	1,506.1	1,628.2	2,207.0	1,536.7	1,382.9
Italy	1,919.2	1,862.5	2,286.3	2,228.0	1,913.7	1,892.7
Spain	984.4	908.6	1,114.9	1,322.1	766.9	596.8
Soviet Union	914.7	909.3	845.4	810.3	685.0	841.7
Argentina	860.0	571.5	615.6	711.9	563.2	613.4
United States	515.0	430.6	475.5	423.9	426.9	418.1
West Germany	406.9	189.1	122.4	216.1	192.8	225.7
Portugal	265.3	234.4	266.7	377.8	174.2	182.5
South Africa	236.4	204.1	219.8	166.5	160.2	127.4
Romania	229.8	200.7	200.8	234.3	207.4	231.2 ^a
Yugoslavia	226.6	169.3	215.9	178.1	155.3	166.4
Hungary	179.2	129.4	150.8	137.0	129.8	152.4
Chile	161.2	142.7	156.5	148.2	148.3	161.8
Greece	144.5	145.3	142.5	136.5	148.1	136.9
Austria	129.6	55.1	81.5	73.3	88.9	68.5
Bulgaria	129.1	128.7	111.3	118.9	72.1	75.4
Australia	106.4	98.9	109.4	88.5	87.8	101.2
Brazil	72.7	76.6 ^a	76.6 ^a	76.6	75.3 ^a	68.6
Czechoslovakia	51.8	23.8	35.3	36.1	36.7	40.4
Switzerland	48.5	22.5	22.2	29.2	20.6	34.4
Algeria	38.4	70.3	79.5	71.0	52.8 ^a	60.6
Cyprus	21.9	25.1	25.1	33.6	24.0	20.3
Uruguay	21.4	14.5 ^a	14.5 ^a	14.5 ^a	11.9 ^a	11.9
Tunisia	13.6	14.7	16.3	16.2	20.9	23.8
Canada	12.4	13.7 ^a	13.7 ^a	13.7	10.3 ^a	12.9
New Zealand	11.9	9.0 ^a	9.0	11.1	10.7	9.2
Turkey	10.3	10.6 ^a	10.6	16.6	9.7	9.2 ^a
Morocco	8.9	13.6	22.5	23.8	14.5	24.4
Japan	8.2	12.0 ^a	12.0	6.4	4.8	4.4
Albania	5.8	5.5 ^a	5.5 ^a	5.5 ^a	5.5 ^a	5.3
Israel	5.0	5.4	4.8	9.8	9.8	9.5
Mexico	3.9 ^a	5.0	5.0	4.5	4.0	3.2

^aProduction in previous year. Figure for year shown not available. ^bEstimated.

Sources: Economic Research Department, Wine Institute; International Wine Office, Paris; Bureau of Alcohol, Tobacco and Firearms.

Chairman GIBBONS. Let me at this point, Mr. Frenzel, put in the record a memorandum by the Commission on the European Community that deals with this subject matter. It is a short, 3-page matter. I think it would be interesting at this point in the record. [The memorandum follows:]

MEMORANDUM BY THE COMMISSION OF THE EUROPEAN COMMUNITIES

The European Community understands that the Ways and Means Subcommittee on Trade will hold a hearing on July 24, 1984 on a substitute amendment to the bill known as the Wine Equity Act.

This note comments briefly on some aspects of the bill which are in conflict with the international trading rules and which could severely damage the trading relationship between the United States and the European Community.

(1) Although this new version aims at expanding exports, rather than just restricting imports, the means proposed amount to threatening restrictions on imports into the US in a pure "sectoral reciprocity" fashion.

The logic of the sectoral equity principle is clearly stated in the bill: "There is a substantial imbalance in international wine trade. . . . The United States Government has failed to take positive action in previous multilateral negotiations to gain greater access to foreign markets for U.S. produced wine but at the same time has granted greater access to the U.S. market by lowering tariffs."

The aim of the bill is to "assure substantially equivalent competitive opportunities for all wine moving in international trade" and to this effect, provides "the President with the authority and remedies to effect the reduction in foreign trade barriers relating to wine and other grape products."

The principle of a strict sectoral reciprocity is illustrated by the fact that the President, according to the bill, "shall give due and full consideration to gaining access for wine to those markets or failing to gain such access to raising the tariff level on wine imported to the United States."

Consequently, the views of the European Community as expressed by the Delegation of the Commission of the European Communities in a memorandum dated January 24, 1984, remain unchanged.

The memorandum read in part: ". . . This bill threatens the access of foreign wines to the U.S. market in the guise of seeking strict reciprocity on a product by product basis. But bilateral reciprocity, sector by sector, is in conflict with the international trading rules (the GATT) and the whole thrust of the post-war liberalization of trade. This has been based on the concept of an overall balance of advantages. To try to establish strict reciprocity in one sector would rapidly spread to a general sector by sector approach and would radically reduce the relatively free access enjoyed by traders to the markets of the major developed countries. This would pose a severe threat in particular for American exports of goods where American tariffs or non-tariff barriers are substantially higher than in many other countries. . . ."

(2) In addition, the European Community would like to point out that the proposed change to the current definition of "domestic industry" for the purpose of an injury determination in a countervailing or antidumping duty case involving a processed agricultural product—to permit the inclusion of the producers of a principal input product—would be contrary to the GATT, notably the agreements known as the Antidumping and Subsidies Codes.

This change would, for instance, allow grape growers to file cases against imports of wine, whereas the GATT limits the definition of "domestic industry" to the producers of the "like product", i.e., in this case, wine.

Chairman GIBBONS. The National Association of Beverage Importers, Mr. Rex D. Davis, president.

STATEMENT OF REX D. DAVIS, PRESIDENT, NATIONAL ASSOCIATION OF BEVERAGE IMPORTERS

Mr. DAVIS. Thank you very much, Mr. Chairman.

Chairman GIBBONS. You may proceed as you wish, Mr. Davis.

Mr. DAVIS. I have a statement, of course, which I would like to submit for the record.

Chairman GIBBONS. We will include it right after your oral remarks.

Mr. DAVIS. I will summarize it.

I am Rex D. Davis, of the National Association of Beverage Importers, hereafter referred to as NABI. NABI is the national trade association representing over 120 companies importing wine, spirits, and beer into the U.S.

In addition to speaking on behalf of my organization, I have been authorized to express the opposition to this legislation for others.

Chairman GIBBONS. Who will identify them?

Mr. DAVIS. I will do that. They are listed in my statement.

I have been authorized to state the opposition of the National Liquor Stores Association to the mandatory investigations proposed in section 4(b) of the substitute bill. This Association represents about 10,000 retail dealers who offer alcohol beverages for off-premise consumption.

I appreciate the opportunity to appear before this subcommittee today to express NABI's and other organizations' opposition to the Wine Equity and Export Expansion Act of 1984.

We believe the "substitute bill" is just as protectionist, unnecessary and illegal as its predecessor, the Wine Equity Act, and even more expensive for the U.S. taxpayers. My remarks on that bill were submitted for the record in advance of the November 15, 1983 hearing.

In expressing our opposition to the Wine Equity and Export Expansion Act of 1984, we will refer to certain sections of the Act and then make some general observations.

We believe that many of the proposed findings in the substitute Wine Equity Act are inaccurate in light of existing information. Finding 1 refers to "the easy accessibility enjoyed by foreign wines to the American market" as compared to the export position of the American wine industry.

Wine importers face a maze of differing regulations in the 50 States as well as Federal requirements, and find this statement difficult to accept. For example, in the State of California, home of the principal proponents of this legislation, tastings of foreign wines may be conducted only through the offices of the Consulate of the country of origin, under restrictive conditions, whereas tastings of California wine may be conducted at various places under the sponsorship of both California Winegrowers and California Wine Blenders.

Finding 2 alleges lack of access to foreign markets, implying the existence of trade barriers. The real culprit for a lack of access to foreign markets for U.S. wines, which has been repeatedly stated today, is the increase in the value of the dollar.

According to the U.S. International Trade Commission Publication No. 1535, dated June 1984, entitled, "Operation of the Trade Agreement Program," the overview on developments in major U.S. trading partners show that in 1983, the strong U.S. dollar lessened competitiveness of U.S. exports and heightened the attractiveness of imported goods in the U.S. market.

We have a table in our statement that goes into that. I will note, for example, that the dollar has gained 77 percent value in France; 32 percent in Germany; and 37 percent in the Netherlands.

Finding 2 of the substitute bill also refers to the "continued low prices for wine." The United States is not alone in facing the problem of low wine prices. The problem is universal and is aggravated by a worldwide wine grape glut.

The wine glut in the U.S. is due to overproduction and overplanting, coupled with several years of abundant yield. Attached as exhibit B is a chart showing U.S. grape production by State for the years 1978 through 1982.

This shows an increase from 4.57 million tons in 1978 to 6.62 million tons in 1982, an increase in production over that time of 45 percent.

Although the United States has done nothing, European concern over the problem of excess wine supply was demonstrated on May 29, 1984 by an EEC agreement to set up a special task force to deal with the problem of the increasing EC wine surplus.

Mr. Chairman, in order to refute the unfounded allegation that the U.S. wine market is being subverted by a "flood of cheap imported wine," NABI commissioned a study of the comparative cost of imported versus domestic wine.

An executive summary of that study is attached as exhibit C. A more detailed report of the findings are included in my statement.

Also, recent determinations by the United States International Trade Commission concerning countervailing and antidumping duty petitions against table wine from France and Italy included the observations:

Thus, based upon the evidence in the record, it appears that it was the lower prices of certain leading domestic wines that first exerted downward pressure on market prices.

In addition, there is evidence in the record indicating that leading domestic producers cut prices in an attempt to maintain or increase market share. Gallo and Taylor, in particular, have been singled out by the trade publications as being particularly aggressive in the pricing area.

That is the end of the quote.

Finally, a United States Department of Agriculture trip report dated March 9, 1984, titled, "Government Assistance to Wine Production and Marketing in Italy," found that all price support and other assistance programs by the European Community and the Italian Government amounted to only 3.84 cents per bottle of common table wine produced in Italy.

The Agriculture Department's team of experts found that 2 cents of this amount was attributable to distillation programs. The report stated:

It would be difficult to show that price support distillation programs constitute a subsidy than enables Italian producers to export wines at lower prices than would otherwise be possible.

In other words, the sum total of European Community and Italian subsidies are equal to less than 2 cents per bottle of common table wine, hardly a market-shattering difference relative to transportation costs, customs duties, and importer markups which add to the price of imported wine.

Finding 3 alleges that the competitive position of U.S. produced wine in international trade has been weakened by foreign export subsidies, unfair trade practices, high U.S. interest rates and unfavorable foreign exchange rates.

We have already agreed that high interest rates have led to the escalation of the dollar against foreign currencies. We totally disagree with the allegations concerning foreign export subsidies and the use of unfair trade practices.

In its investigation of antidumping and countervailing duty petitions against certain table wines from France and Italy, the U.S. International Trade Commission stated, and I quote:

There is no reasonable indication that an industry in the United States is materially injured or threatened with material injury by reason of imports from France and Italy of certain table wines allegedly subsidized and sold at less-than-fair value.

Although some domestic producers of ordinary table wine are experiencing financial problems, we do not find a reasonable indication of a causal connection between any such problems and the subject imports.

It was referred to by other witnesses that the ITC terminated its investigation prematurely and that was against their interests. It was also indicated, though, that the petition was terminated as being without merit, as decided by the ITC.

In view of other actions by the ITC in other cases, I think this is a significant factor.

Finding five alleges that the U.S. Government has failed to take positive action to gain greater access to foreign markets for U.S.-produced wine, but at the same time, has granted greater access to the U.S. market by lowering tariffs.

Tariffs on table wine have not been reduced for 35 years. In other lesser categories of wines, there have been reductions.

Also, Ambassador Brock also mentioned this, that at least for the last 10 years, the Office of the United States Trade Representative, the Bureau of Alcohol, Tobacco and Firearms, and the Foreign Agricultural Service have worked successfully in gaining greater access for U.S.-produced wines in foreign markets.

Last August, the European Economic Community and the United States agreed to harmonize oenological procedures in a wine accord between the trading partners. Since that time, there has been a progression of harmonizing activities on both sides.

The reference pricing has been rescinded by the EC. For example, on July 5, 1984, the Bureau of Alcohol, Tobacco and Firearms announced that the EC had agreed to alter its wine labeling regulations to permit U.S.-produced wines to have easier access to its market.

Earlier, on June 28, 1984, the council of the European Communities published in its official journal the implementation of the wine accord with the United States. A copy of the announcement is attached as exhibit B.

Members of the committee, it has been suggested that these were the result of the introduction of the Wine Equity Act. I have been in Brussels and I can tell you, many of these decisions were postponed by the introduction of the Wine Equity Act last year.

Reference has been made to the fact that the Japanese Government has made concessions as a result of the negotiations of Ambassador Brock.

Finding 6 and 7, I think we must take together. These two so-called findings both ignore the high value of the U.S. dollar. Our position is that no amount of legislation can change the fact that

under current price structure, American wines are noncompetitive in foreign markets.

The Wine Equity and Export Expansion Act purports to provide wine consumers with the greatest possible choice of wines from wine-producing countries.

It is difficult to understand how this would result from legislation which would require mandatory trade investigations with the possibility of the imposition of trade barriers against imported wines.

The same statement applies to the purported intent of eliminating tariff and nontariff barriers existing in international trade involving wines and other grape products.

The more likely result from implementation of this act will be an escalating trade war with increased trade barriers.

Section 3 deals with definitions, and in passing, I would just comment that wines are made from a lot of fruits other than grapes.

We think the definition of "designated major trading country" is improved from the earlier version of the act. It is clear here, however, that inclusion of "foreign wine production" and "wine exports to the United States" in the criteria implies an intention to permit the designation of major wine exporting countries for investigation under the act, even though they are not potential markets for U.S. wines.

The term "nontariff trade barriers" is so broadly defined that it involves all aspects of government regulation of wine production including those that would constitute export subsidies, rather than nontariff trade barriers.

Particularly objectionable is the inclusion of price support systems such as the program to convert excess and low-quality wines into alcohol, because such systems are designed to maintain the price of wine in the country of origin.

Section 4, "Reduction of Tariff and Nontariff Barriers":

Subsection (a) thereof is clearly unnecessary. As pointed out previously, the U.S. Trade Representative is already actively and successfully negotiating the reduction of nontariff trade barriers with all appropriate countries.

The President's authority to negotiate the reduction on tariffs has expired, so this section would serve no purpose.

We have seen that the U.S. Trade Representative's office has already successfully consulted and negotiated for reduction of nontariff trade barriers. We believe that the section 4(b) is clearly unconstitutional. We further believe that under the court decisions we have set forth the legal arguments to this effect and I will certainly not read them but we believe singling out wine importers under the designated trading country concept would place an undue burden on those importers as opposed to importers of other merchandise from those countries.

We also believe that under the court decisions that such an arrangement would be unconstitutional.

We do have a lengthy discussion of that in the prepared statement.

We would also point out that section 4(a) and (b), particularly 4(b), is not necessary, because there is as has been pointed out, existing legislation which permits any interested party to file a peti-

tion before the U.S. Trade Representative to undertake an investigation.

Now, the difference is of course that today the U.S. Trade Representative has to make a preliminary determination which can be negative, and this has to be published and so forth—indicating that he finds the petition without merit. On the other hand, he can make an affirmative determination and the investigation can proceed. Of course under the Trade Act of 1974, the President has discretion to commence such an investigation on his own initiative.

We submit that the mandate to the President under section 4(b) of the bill is in direct contravention of the congressional intent for the orderly administration of section 301 and following. The Senate report 93-1298 contains the Senate Finance Committee explanations of congressional intent with regard to the Trade Act of 1974. There is an explanation beginning at page 163 concerning section 301 relief. In commenting on this at page 164 the Report states, " * * * This bill gives the President broad authority to harmonize, reduce, or eliminate on a reciprocal basis. The authority in this section 301 should not be used frivolously or without justification."

We suggest this section 301 investigation under this section could be frivolous and without justification.

It has already been referred to earlier that the private parties can petition STR to undertake such an investigation and it was pointed out that the wine industry has not filed such a petition since the act was enacted.

Turning to section 7, we certainly have no objection to the development, maintenance and expansion of foreign markets for U.S. wine. We would merely point out for the committee's information that while this hearing is in progress, a vote is under way in California on a wine and winegrape marketing order. If adopted, the marketing order would assess all California vintners and winegrape growers for the purpose of domestic and foreign market development. As you know, 90 percent or more of all U.S. wine is produced in California.

Under section 8, the amendments proposed to be made to the Tariff Act of 1930 could open a Pandora's box for the International Trade Commission and other affected Federal agencies. As has been established, the amendments would give producers of principal raw materials standing to allege material injury or threat of material injury, as a result of imports of the processed agricultural product even if the producer of the raw materials is only remotely connected to the processed product.

We believe the proposed amendments are a blatant attempt to circumvent the International Trade Commission in its well-reasoned findings concerning certain table wine from France and Italy. If enacted, they could create a logjam at the ITC which would interfere with deliberation on more meritorious petitions.

Mr. Chairman, that concludes our comments on several sections of the substitute bill but I would like to make two or three general observations before closing.

It has already been pointed out that the legislation is opposed by a substantial segment of the domestic wine industry. Exhibit F contains a list of 14 California and New York wineries which are opposed to the Wine Equity and Export Expansion Act of 1984. Each

one has authorized me to report its opposition to the proposed legislation. Of course, there are probably others in opposition which I do not know about. The 14 listed wineries account for about 20 percent of wine produced in California and nearly 60 percent of wine produced in New York State.

If you look you will see they represent thousands and thousands of acres of wine grapes.

Attached is exhibit G, a resolution addressed to Representative William Carney by the 80-member Long Island Grapegrowers Association. While the resolution expresses opposition to the predecessor Wine Equity Act, I have been assured by the LIGGA President, David L. Mudd, that his organization also opposes the Wine Equity and Export Expansion Act of 1984.

It has been said here today that this so-called compromise bill is acceptable to all parties concerned, but it is my information that several important agricultural groups or organizations are still studying their position and that the subcommittee will hear from them in the near future.

Chairman GIBBONS. Thank you, Mr. Davis, you make a good case for your association.

Let me ask you a question about this list of, partial list of American wineries which are opposed. Are any of these subsidiaries of major importers?

Mr. DAVIS. Yes, sir.

Chairman GIBBONS. Can you point out which ones are or are not?

Mr. DAVIS. Let me, Mr. Chairman—

Chairman GIBBONS. I just don't know that much about the wine industry.

Mr. DAVIS. Yes, sir, but many subsidiaries of major importers produce more domestic wine than they import. In other words, their interest is that they don't wish to see their imported wines restricted obviously, but if you are talking about economic interests, they have a greater economic interest in production of domestic wine than they do of imported wine.

Almaden Vineyards is owned by National Distillers, a domestic group.

Chairman GIBBONS. How about Baringer, is it a subsidiary of anyone?

Mr. DAVIS. Yes, sir, Nestlé.

Chairman GIBBONS. Nestlé?

Mr. DAVIS. Yes. They are an importer of wines.

Chairman GIBBONS. I understand, yes. They are a Swiss concern.

Mr. DAVIS. Yes, sir.

Chairman GIBBONS. Or multinational.

Callaway Vineyards?

Mr. DAVIS. Yes, sir, that is owned by Hiram Walker.

Chairman GIBBONS. How about over here—looking at the ones with 10 acres—San Martin Winery?

Mr. DAVIS. Yes, sir. That is domestic. Owned by Somerset Importers, which is owned by a domestic conglomerate.

Chairman GIBBONS. And Simi, I imagine, is Japanese?

Mr. DAVIS. No, that is—Simi is owned by Schieffelin, which is in turn owned by Moët Chardon, a French entity.

Chairman GIBBONS. How about the Long Island Grapegrowers Association. I don't know anything about them at all.

Mr. DAVIS. There is a budding winegrape growing industry in Long Island. These members are——

Chairman GIBBONS. That is the best thing I have heard about that place in a long time. I knew they grew potatoes out there. I know they grow people out there. I didn't know they grew grapes.

Mr. DAVIS. Yes, sir, and also their—they are introducing some grapes that are a different variety in Long Island, Chardonnays, and so forth, instead of the domestic variety grapes.

Chairman GIBBONS. Do they produce for wine growers or do they produce for table grapes?

Mr. DAVIS. No, sir, they are a wine grape grower.

Chairman GIBBONS. I certainly appreciate your furnishing that table from the Customs Bulletin on page 3. That is astounding.

Mr. DAVIS. I only have one or two more remarks.

Chairman GIBBONS. Excuse me, I thought you had finished.

Mr. DAVIS. No, I have just one or two.

Mr. FRENZEL. He is just warming up.

Chairman GIBBONS. Sorry to interrupt.

Mr. DAVIS. I don't mind at all. I have just two more points to make and then just a short conclusion.

We feel that the Act would lead to further deterioration of our trade relations with our trading partners. We think that mandatory investigation of our major trading partners required by the substitute bill will surely exacerbate trade relations with those countries. This is recognized in an editorial titled, "Sour Grapes" from the June 29, 1984 Journal of Commerce, which is attached as Exhibit I. It says, in part:

The Wine Equity Act . . . would have restricted American imports of European wines and created another source of rancor over trade policy with the European Community . . . The proposed Wine Equity and Export Expansion Act [will] resurrect the specious arguments of its forbear—and aim at restricting imports.

The increased "rancor" in our trade relations would surely lead to retaliation against vital American exports such as livestock feed and other agricultural products. U.S. farmers are well aware of this as evidenced by exhibit H, an article titled "U.S. Farmers Back Free Trade" from the July 15, 1984 issue of The Washington Post. Farmer Raymond Heck of Perry, IA, is quoted as saying, "There isn't any such thing as a nonagricultural trade issue." The article makes it clear that U.S. agricultural products will be a prime target for retaliation against U.S. trade restrictions.

Mr. Chairman, there was some indication that the EC would have no objection or would have little objection or would take lightly enactment of this legislation.

I think that I can disabuse anybody who has that opinion. Just last evening I received a copy of a memorandum by the Commission of the European Communities and I will read the first two short paragraphs:

The European Community understands that the Ways and Means Subcommittee on Trade will hold a hearing on July 24, 1984, on a substitute amendment to the bill known as the Wine Equity Act. This note comments briefly on some aspects of the bill which are in conflict with the international trading rules and which could se-

verely damage the trading relationship between the United States and European Community.

Then it goes on with a further paragraph. Since I just received it I would like to introduce it.

Chairman GIBBONS. I just put it in the record, I did that just before your statement. It is already in there. I am glad you emphasized it.

Mr. DAVIS. Also, Mr. Chairman, we would like to make the point that this bill would be very costly for the U.S. taxpayer. It is difficult to generalize on the cost of a section 301 investigation, but estimates are that each one could cost hundreds of thousands of dollars. If, as the Journal of Commerce estimates, 20 nations are designated as major trading countries, the total investigative costs would be in the millions of dollars. This would be in addition to the \$2 million to \$10 million annual cost proposed for export expansion and the expenses involved in consulting and reporting.

Mr. Chairman and members of the subcommittee, we have conclusively proven that the Wine Equity and Export Expansion Act is protectionist in intent and application; that it will be costly to the U.S. taxpayers; that it will be ineffective because of the high value of the dollar; that it is unconstitutional; that it is opposed by a substantial segment of the domestic wine industry; that it could lead to retaliation against important U.S. exports; that it is unnecessary in light of existing legal remedies; and that it could create a logjam at the International Trade Commission.

This legislation, Mr. Chairman, is not in the best interests of the United States. Thank you and members of the subcommittee for your attention.

[The prepared statement follows:]

STATEMENT OF REX D. DAVIS, PRESIDENT NATIONAL ASSOCIATION OF BEVERAGE IMPORTERS

POSITION ON THE WINE EQUITY AND EXPORT EXPANSION ACT OF 1984

I am Rex D. Davis, President of the National Association of Beverage Importers, hereafter referred to as NABI. NABI is the national trade association representing over 120 companies importing wine, spirits and beer into the U.S. In addition to speaking on behalf of my organization, I have been authorized to express the opposition to this legislation of the Distilled Spirits Council of the United States, the Long Island Grape Growers Association, and substantial number of domestic vineyards which will be identified later. Also, I have been authorized to state the opposition of the National Liquor Stores Association to the mandatory investigations proposed in Section 4(b) of the substitute bill. This Association represents about 10,000 retail dealers who offer alcohol beverages for off-premise consumption.

I appreciate the opportunity to appear before this Subcommittee today to express NABI's and other organizations' opposition to the Wine Equity and Export Expansion Act of 1984. We believe the "substitute bill" is just as protectionist, unnecessary and illegal as its predecessor, the Wine Equity Act, and even more expensive for the U.S. taxpayers. My remarks on that bill were submitted for the record in advance of the November 15, 1983 hearing. I offer them at this time without comment.

In expressing our opposition to the Wine Equity and Export Expansion Act of 1984, we will refer to certain sections of the Act and then make some general observations concerning the proposed legislation.

Section 2—Congressional Findings and Purposes

Many of the proposed findings in the substitute Wine Equity Act are inaccurate in light of existing information. Finding 1 refers to "the easy accessibility enjoyed by foreign wines to the American market" as compared to the export position of the

American wine industry. Wine importers face a maze of differing regulations in the 50 states as well as Federal requirements, and find this statement difficult to accept. For example, in the State of California, home of the principal proponents of this legislation, tastings of foreign wines may be conducted only through the offices of the Consulate of the country-of-origin, under restrictive conditions, whereas tastings of California wine may be conducted at various places under the sponsorship of both California Winegrowers and California Wine Blenders.

Finding 2 alleges lack of access to foreign markets, implying the existence of trade barriers. The real culprit for a lack of access to foreign markets for U.S. wines is the increase in the value of the dollar. According to the U.S. International Trade Commission Publication No. 1535 dated June 1984, entitled "Operation of the Trade Agreement Program," the overview on developments in major U.S. trading partners show that in 1983, the United States saw a dramatic worsening of the trade performance with the European Community, Canada, Japan, Mexico, and some of the newly industrialized countries. According to the report:

"For the first time, the United States experienced a trade deficit with all of these countries simultaneously, with notable turnarounds in trade with the European Community and Mexico. U.S. exports to virtually each major market declined; imports rose dramatically. The decline affected every category of exports, but particularly manufactured goods. Rapid growth in the United States fueled demand for all products including those from foreign sources, and slower growth in U.S. export markets diminished opportunities for overseas sales. The strong U.S. dollar lessened the price competitiveness of U.S. exports and heightened the attractiveness of imported goods in the U.S. market."

Shown below are the official quarterly rates of exchanges as published by the Customs Service and excerpted from two Treasury Decisions showing the percentage appreciation of the dollar in foreign countries during April through June of 1980 and April through June of 1984.

RATES OF EXCHANGE TO U.S. DOLLARS ¹

Country	Currency	1980 exchange	1984 exchange	Percent increase
Belgium.....	Franc.....	\$0.031696	\$0.018818	68
Canada.....	Dollar.....	.835282	.784621	6
France.....	Franc.....	.221239	.124938	77
Germany.....	Deutsche mark.....	.509814	.384911	32
Italy.....	Lira.....	.001098	.000619	77
Mexico.....	Peso.....	.043725	.005666	6,717
Netherlands.....	Guilder.....	.466092	.340716	37
Portugal.....	Escudo.....	.019305	.007561	155
Spain.....	Peseta.....	.013587	.006739	102
United Kingdom.....	Pound.....	2.1515	1.4330	50

¹ Source: Customs Bulletins, vol. 14, No. 80 and vol. 18, No. 20.

The effect on exports is obvious. Everything else being equal, since 1980 goods priced in U.S. dollars have become 77% more expensive in France, 32% more expensive in Germany, and 37% more expensive in the Netherlands. By the same token, exports from these countries would have become correspondingly less expensive.

The difficulty in attempting to increase exports of wine abroad concerns the economic application of the foregoing situation. As long as the U.S. dollar remains at such a premium against other currencies, U.S. wines will be economically unavailable in these countries. Supporting this position is the attached Exhibit A, an editorial from the January 1984 issue of *Wines and Vines*, a publication directed to the U.S. wine industry. Editor Phillip Haring states that even if the Wine Equity Act should become law, it would not help U.S. wine exporters because of the vast price disparity between locally available wine in the Common Market and U.S. wines.

Finding 2 of the substitute bill also refers to the "continued low prices for wine." The United States is not alone in facing the problem of low wine prices. The problem is universal and is aggravated by a worldwide winegrape glut. The wine glut in the U.S. is due to overproduction and overplanting, coupled with several years of abundant yield. Attached as Exhibit B is a chart showing U.S. grape production by state for the years 1978 through 1982. This shows an increase from 4.57 million tons in 1978 to 6.62 million tons in 1982, an increase in production of 45%. Although the United States has done nothing, European concern over the problem of excess wine

supply was demonstrated on May 29, 1984 by an EEC agreement to set up a special task force to deal with the problem of the increasing wine surplus.

The wine glut and the escalation of the value of the dollar has not resulted in imported wines being lower-priced than their domestic counterparts. Indeed, separate studies by three unrelated organizations indicate the opposite.

In order to refute the unfounded allegation that the U.S. wine market is being subverted by a "flood of cheap imported wine," NABI commissioned a study of the comparative cost of imported vs. domestic wine. An executive summary of that study is attached as Exhibit C. A more detailed report of the findings follow:

"We found that domestic wines are priced lower than imported wines. The data are consistent for 1981, 1982, and 1983; at each of the three levels of distribution; and across the five markets used for the study. The sole exception to this general finding is the advertised 750ml bottle prices in New York.

"At the retail level, bottle prices of the 750ml domestic wines averaged \$2.31 compared to \$3.04 for their imported counterparts. Prices of the domestic 1.5L containers averaged \$3.18 versus \$4.43 for the imported brands of this size. These findings put prices of imported 750ml brands 31.6% higher than the same size domestic brands; and imported 1.5L containers 39.3% above the same-sized domestic brands.

"Average wholesaler domestic 750ml per-case wine prices in the five markets for 1981, 1982, and 1983 were \$256.44, \$27.60 and \$27.75 respectively. These prices were 25% to 28% below the 750ml imported wine prices in each of the 3 years. The gap was even larger for case prices of the 1.5L containers, where domestic wine prices in the 5 markets averaged over 40% lower than their imported counterparts in each year."

Also, recent determinations by the United States International Trade Commission concerning countervailing and antidumping duty petitions against table wine from France and Italy included the observations:

"Thus based upon the evidence in this record, it appears that it was the lower prices of certain leading domestic wines that first exerted downward pressure on market prices. . . In addition, there is evidence in the record indicating the leading domestic producers cut prices in an attempt to maintain or increase market share. Gallo and Taylor, in particular, have been singled out by the trade publications as being particularly aggressive in the pricing area.

"Source: Determination of the Commission in Investigation Nos. 701-TA-210 and 211 (Preliminary) USITC Publication 1502, March, 1984."

Finally, a United States Department of Agriculture trip report dated March 9, 1984, titled "Government Assistance to Wine Production and Marketing in Italy," found that all price support and other assistance programs by the European Community and the Italian Government amounted to only 3.84 cents per bottle of common table wine produced in Italy. The Agriculture Department's team of experts found less than two cents of this amount was attributable to distillation programs. The report stated: "It would be difficult to show that price support distillation programs constitute a subsidy that enables Italian producers to export wines at lower prices than would otherwise be possible." In other words, the sum total of European Community and Italian subsidies are equal to less than two cents per bottle of common table wine—hardly a market-shattering difference relative to transportation costs, customs duties, and importer markups which add to the price of imported wine.

Finding 3 alleges that the competitive position of United States-produced wine in international trade has been weakened by foreign export subsidies, unfair trade practices, high U.S. interest rates and unfavorable foreign exchange rates. We have already agreed that high interest rates have led to the escalation of the dollar against foreign currencies. We totally disagree with the allegations concerning foreign export subsidies and the use of unfair trade practices.

In its investigation of antidumping and countervailing duty petitions against certain table wines from France and Italy, the U.S. International Trade Commission stated: "There is no reasonable indication that an industry in the United States is materially injured or threatened with material injury. . . by reason of imports from France and Italy of certain table wines. . . allegedly subsidized and sold at less-than-fair value. . . Although some domestic producers of ordinary table wine are experiencing financial problems, we do not find a reasonable indication of a causal connection between any such problems and the subject imports."

It is important to note that at the earliest legal time the ITC terminated its investigation of the antidumping and countervailing duty petitions filed by some American grape growers and vintners. In view of the consistently cautious and studious efforts taken by the Commission on behalf of other U.S. commodities, this would indicate that the petitions were without substantial merit.

Finding 5 alleges that the United States Government has failed to take positive action to gain greater access to foreign markets for U.S.-produced wine but at the same time has granted greater access to the U.S. market by lowering tariffs. Tariffs on table wine have not been reduced for thirty-three years! A reduction in the duty rate for rice wine was made in 1967 along with a reduction in duty for Vermouth and Marsala. Sherry duties were reduced in 1962. However, all these concessions were made in trade-offs for equivalent concessions in other U.S. commodities.

Also, it is important to note that for at least ten years the Office of the United States Trade Representative, the Bureau of Alcohol, Tobacco and Firearms, and the Foreign Agricultural Service have worked successfully in gaining greater access for U.S.-produced wines in foreign markets. Last August, the European Economic Community and the United States agreed to harmonize oenological procedures in a wine accord between the trading partners. Since that time there has been a progression of harmonizing activities on both sides. For example, on July 5, 1984 the Bureau of Alcohol, Tobacco and Firearms announced that the EC had agreed to alter its wine labeling regulations to permit U.S.-produced wines to have easier access to its market. Earlier, on June 28, 1984, the Council of the European Communities published in its Official Journal the implementation of the Wine Accord with the United States. A copy of the announcement is attached as Exhibit D.

In addition, on May 21, 1984 the Office of the United States Trade Representative stated that the Japanese Government will cut its tariff on U.S. wines. A copy of the press release is attached as Exhibit E.

"Finding 6 . . . 'Wine consumption per capita is very low in many major non-wine producing markets and the demand potential for American wine is significant

"Finding 7 . . . 'The United States winemaking industry has the capacity and the ability to export substantial volumes of wine and an increase in wine exports from the United States would create new jobs, improve this Nation's balance of trade, and otherwise strengthen the national economy.'"

These two so-called findings must be taken together. Both arguments ignore the high value of the U.S. dollar. The demand potential for American wine might be significant in many major nonproducing markets, if the value of the dollar were lower. It is not, however, and the United States wines have been priced out of the world market. To the same extent, it is certainly true that the U.S. winemaking industry has the capacity and ability to export substantial volumes of wine, if the price were right. However, no amount of legislation can change the fact that under the current price structure, American wines are noncompetitive in foreign markets.

The Wine Equity and Export Expansion Act purports to provide wine consumers with the greatest possible choice of wines from wine-producing countries. It is difficult to understand how this would result from legislation which would require mandatory trade investigations with the possibility of the imposition of trade barriers against imported wines.

The same statement applies to the purported intent of eliminating tariff and nontariff barriers existing in international trade involving wines and other grape products. The more likely result from implementation of this Act will be an escalating trade war with increased trade barriers.

Section 3—Definitions

The definitions of "designated major trading country" is improved from the earlier version of the Act. It is clear here, however, that inclusion of "foreign wine production" and "wine exports to the United States" in the criteria implies an intention to permit the designation of major wine-exporting countries for investigation under the Act even though they are not potential markets for U.S. wines.

The term "nontariff trade barriers" is so broadly defined that it involves all aspects of government regulation of wine production including those that would constitute export subsidies. Particularly objectionable is the inclusion of price support systems such as the program to convert excess and low quality wines into alcohol, because such systems are designed to maintain the price of wine in the country-of-origin.

Section 4—"Reduction of Tariff and Nontariff Barriers"

Subsection (a) thereof is clearly unnecessary. As pointed out previously, the United States Trade Representative is already actively and successfully negotiating the reduction of nontariff trade barriers with all appropriate countries. The President's authority to negotiate the reduction on tariffs has expired so this section would serve no purpose.

Under Section 4(b) of the proposed legislation, the President would be mandated to initiate investigations under Section 301 of the Trade Act with respect to nontar-

iff barriers of designated major trading companies of wine and other grape products. Such mandate would not apply to other U.S. products or other U.S. industries.

This would single out the wine and grape industry for specially favorable treatment under Section 301 of the Trade Act of 1974, as amended by the Trade Agreements Act of 1979. Importers of wine from "designated major trading countries" would be faced with the prospect of defending mandatory 301 actions concerning the entry of their merchandise. Importers of merchandise other than wine and grape products from these designated trading countries would not be faced with the prospect of defending such actions under this Act. Accordingly, there would be clear discrimination against wine importers—a burden which would not be shared by the importers of other commodities.

It is well settled that equal protection claims are cognizable under the due process clause of the Fifth Amendment, *Schneider v. Rusk* 377 US 163 (1964). Congress could probably require that the President initiate an investigation under section 301 with respect to all nontariff barriers involving "designated major trading countries." While this would be an administrative horror, it would be consistent with the broad Statement of Purposes under Section 2 of the Trade Act of 1974 which, at paragraph 3 deals with "competitive opportunity for the Commerce of the United States." The purpose of the Trade Act is to deal with trade issues on a broad basis. There is no authority to deal with "the competitive opportunities for individual commodities in the Commerce of the United States."

To classify wine, and necessarily wine importers, for special treatment would have the effect of creating a special class of persons within the class of importers generally. It is this classification which violates the due process clause. In the case of *Johnson v. Robison*, 415 US 361 (1974), the Court held "... Although an individual's right to equal protection of the laws does not deny the power to treat different classes of persons in different ways, it denies the power to legislate that different treatment be accorded to persons placed by statute into different classes on the basis of criteria wholly unrelated to the objective of that statute." (italic supplied)

This is exactly the thrust of this bill in that wine and grape products would be singled out for special treatment. Although the criteria for the establishment of such treatment may be beneficial in the development of the U.S. wine industry, this same criteria is "wholly unrelated to the objective" of the Trade Act of 1974 and Section 301 thereof.

In the recent case of *Califano v. Boles* 443 US 282 (1979), the Court stated, "In order to make out a disparate impact warranting further scrutiny under the due process clause of the Fifth Amendment, it is necessary to show that the class which is purportedly discriminated against consequently suffers significant deprivation of a benefit or imposition of a substantial burden."

It is obvious under the Wine Equity and Export Expansion Act that importers of wine and their wholesale customers will suffer a substantial burden which would not be shared by importers of other commodities. Under the foregoing, such a scheme would violate the due process guarantees of the Fifth Amendment.

THE U.S. WINE INDUSTRY CAN PROCEED UNDER EXISTING LAW

There is no reasonable basis for the passage of this special interest legislation mandating Presidential action concerning nontariff barriers on wine. If any segment of the U.S. wine industry has information concerning the existence of nontariff barriers to the export of American wine, a petition can be filed under existing Section 302(a) of the Trade Act of 1974. The full text is reproduced below.

Sec. 302. Petitions for action by President

(a) *Filing of petition with Trade Representative.*—Any interested person may file a petition with the United States Trade Representative (hereinafter in this subchapter referred to as the "Trade Representative") requesting the President to take action under section 2411 of this title and setting forth the allegations in support of the request. The Trade Representative shall review the allegations in the petition and, not later than 45 days after the date on which he received the petition, shall determine whether to initiate an investigation.

(b) *Determinations regarding petitions.*—

(1) *Negative determination.*—If the Trade Representative determines not to initiate an investigation with respect to a petition, he shall inform the petitioner of his reasons therefor and shall publish notice of the determination, together with a summary of such reasons, in the Federal Register.

(2) *Affirmative determination.*—If the Trade Representative determines to initiate an investigation with respect to a petition, he shall initiate an investigation regarding the issues raised. The Trade Representative shall publish the

text of the petition in the Federal Register and shall, as soon as possible, provide opportunity for the presentation of views concerning the issues, including a public hearing—

(A) within the 30-day period after the date of the determination (or on a date after such period if agreed to by the petitioner), if a public hearing within such period is requested in the petition; or

(B) at such other time if a timely request therefor is made by the petitioner.

There are several special benefits which the U.S. wine industry would accrue if wine exporters were relieved from the necessity of going through Sec. 302(a) channels at the Office of the Trade Representative. First, the U.S. wine industry would save a lot of money because it wouldn't have to document alleged nontariff barriers. Second, it would completely circumvent the problem of failure. Under Sec. 302(b), the Trade Representative has the option to deny an investigation. Under current law the Trade Representative must review the allegations contained in the petition and determine within 45 days after its receipt whether to initiate an investigation. Congress imposed this requirement to eliminate frivolous petitions. NABI submits that the mandate to the President under Section 4(b) of the bill is in direct contravention of the congressional intent for the orderly administration of Section 301 et seq.

Senate Report 93-1298 contains the Senate Finance Committee explanations of congressional intent with regard to the Trade Act of 1974. There is an explanation beginning at page 163 concerning Section 301 relief. In commenting on this at page 164 the Report states: "... This bill gives the President broad authority to harmonize, reduce, or eliminate on a reciprocal basis. The authority in this Section [301] should not be used frivolously or without justification."

We urge this Committee to take heed of this cautionary language. Mandatory 301 investigations of the nontariff barriers of designated major trading countries on wine and other grape products, could be frivolous and, on the basis of current information, without justification. Section 4(b) of the bill would remove the safeguards imposed by Congress in Section 302. Among the safeguards is a provision giving the U.S. Trade Representative the power not to initiate an investigation. Should the Trade Representative decide not to approve a petition, he would inform the petitioner of his reasons by publication of a notice of such determination and a summary of the reasons in the Federal Register.

These provisions permitting private parties to file petitions with the Special Trade Representative have been in the law since its passage. We do not know of any segment of the U.S. wine industry which has ever filed a petition under Section 302, asking the U.S. Trade Representative to initiate an investigation, so that the President could take action under Section 301. It seems obvious that if members of the U.S. wine industry were able to establish nontariff barriers on wine which, under the terms of the statute, are "unjustifiable, unreasonable, or discriminatory and burden or restrict United States commerce," they would have proceeded under existing law.

Of course the problem with existing law when one doesn't have an adequate case, is that the party petitioning the Trade Representative is bound by the determination of the Trade Representative. Under Section 304 the Trade Representative has to recommend to the President what action, if any, he should take under Section 301 with respect to the issues raised in the petition. We note particularly the safeguard contained under Section 304(b) which states in part:

"Before recommending that the President take action under Section 2411 of this Title with respect to the treatment of any product or service of a foreign country or instrumentality which is the subject of a petition filed under Section 2412 of this title, the Trade Representative . . .

"(1) Shall provide opportunity for the presentation of views, including a *public hearing if requested by any interested person*; (italic supplied)

"(2) Shall obtain advice from the appropriate private sector advisory representative provided for under Section 2155 of this Title, and

"(3) May request the views of the International Trade Commission regarding the probable impact on the economy of the United States in the taking of action with respect to such product or service."

Under Paragraph 2 above, it is required that the Office of the U.S. Trade Representative obtain appropriate private sector advisory representative advice. This action is mandated under Title I, Section 135 of the Trade Act of 1974. Under Subsection (i) thereof: "It shall be the responsibility of the Special Representative . . . to adopt procedures for consultation with and obtaining information and advice

from the advisory committee established pursuant to (c) of this Section on a continuing and timely basis."

Advice from the private sector is integral to the functioning of Section 301 and other aspects of the trade agreements program.

Section 7—Wine Export Promotion

We certainly have no objection to the development, maintenance and expansion of foreign markets for U.S. wine. We would merely point out for the Committee's information that while this hearing is in progress, a vote is under way in California on a wine and winegrape marketing order. If adopted, the marketing order would assess all California vintners and winegrape growers for the purpose of domestic and foreign market development. As you know, 90% of all U.S. wine is produced in California.

Section 8—Amendments to the Tariff Act of 1930

The amendments proposed to be made to the Tariff Act of 1930 could open a Pandora's box for the International Trade Commission and other affected Federal agencies. The amendments would give producers of principal raw materials standing to allege material injury or threat of material injury, as a result of imports of the processed agricultural product even if the producer of the raw materials is only remotely connected to the processed product.

We believe the proposed amendments blatantly attempt to circumvent the International Trade Commission in its well-reasoned findings concerning certain table wine from France and Italy. If enacted, they could create a logjam at the ITC which would interfere with deliberations on more meritorious petitions.

Mr. Chairman, that concludes our comments on several sections of the substitute bill but I wish to make two or three general observations before closing.

THE LEGISLATION IS OPPOSED BY A SUBSTANTIAL SEGMENT OF THE DOMESTIC WINE INDUSTRY

Exhibit F contains a list of 14 California and New York wineries which are opposed to the Wine Equity and Export Expansion Act of 1984. Each one has authorized me to report its opposition to the proposed legislation. Of course there are probably others in opposition which I do not know about. The fourteen listed wineries account for about 20% of wine produced in California and nearly 60% of wine produced in New York State.

Also attached is Exhibit G, a resolution addressed to Representative William Carney by the 80-member Long Island Grade Growers Association. While the resolution expresses opposition to the predecessor Wine Equity Act, I have been assured by LIGGA President David L. Mudd, that his organization also opposes the Wine Equity and Export Expansion Act of 1984.

THE ACT WOULD LEAD TO FURTHER DETERIORATION OF TRADE RELATIONS

The mandatory investigation of our major trading partners required by the substitute bill will surely exacerbate trade relations with those countries. This is recognized in an editorial titled, "Sour Grapes" from the June 29, 1984 Journal of Commerce, which is attached as Exhibit I. It says, in part: "The Wine Equity Act . . . would have restricted American imports of European wines and created another source of rancor over trade policy with the European Community . . . The proposed Wine Equity and Export Expansion Act [will] resurrect the specious arguments of its forbear—and aim at restricting imports."

The increased "rancor" in our trade relations would surely lead to retaliation against vital American exports such as livestock feed and other agricultural products. U.S. farmers are well aware of this as evidenced by Exhibit H, an article titled "U.S. Farmers Back Free Trade" from the July 15, 1984 issue of The Washington Post. Farmer Raymond Heck of Perry, Iowa is quoted as saying, "There isn't any such thing as a nonagricultural trade issue." The article makes it clear that U.S. agricultural products will be a prime target for retaliation against U.S. trade restrictions.

COSTS TO AMERICAN TAXPAYERS

Implementation of the Wine Equity and Export Expansion Act will be costly for U.S. taxpayers. It is difficult to generalize on the cost of 301 investigations, but estimates are that each one could cost hundreds of thousands of dollars. If, as the Journal of Commerce estimates, 20 nations are designated as major trading countries, the total investigative costs would be in the millions of dollars. This would be in

addition to the \$2-10 million annual cost proposed for export expansion and the expenses involved in consulting and reporting.

CONCLUSION

Mr. Chairman and members of the Subcommittee, we have conclusively proven that the Wine Equity and Export Expansion Act is protectionist in intent and application; that it will be costly to the U.S. taxpayers; that it will be ineffective because of the high value of the dollar; that it is unconstitutional; that it is opposed by a substantial segment of the domestic wine industry; that it could lead to retaliation against important U.S. exports; that it is unnecessary in light of existing legal remedies; and that it could create a logjam at the International Trade Commission;

Mr. Chairman, this legislation is not in the best interest of the United States.

Thank you and the members of the Subcommittee for your attention.

EXHIBIT A

[January 1984, Wines & Vines]

WISE & OTHERWISE

(By P.E. Hiarling)

If the Wine Equity Act clears Congress, and is signed by President Reagan, American wines are to be accorded the same access to foreign producing countries in the export trade as those countries' wines are given in the States' wine market. Well and good, and that sounds fair enough. Basically, the bill seems directed against French and Italian producers through their governments. The Europeans could, of course, head off the Equity legislation were they to decide that, inasmuch as some of the EEC countries sell so much wine in the U.S., they would volunteer an exception for American wines in *their* markets, i.e., not impose the common external tariff (12¢ a bottle) or whatever. Such an action could take the wind out of the sails of the Equity legislation proponents and muffle the sounding board afforded by Congressional hearings. OK, assuming that, one way or another, those tariff and non-tariff trade barriers disappear, what will ensue then? American export hopefuls should be aware of problems caused by the strong dollar when compared to European currencies.

A Dutch wine merchant friend put the situation into perspective during my visit to Europe in November. He said in 1979 five Dutch guilders equaled 10 French francs and \$2.63 U.S. Last year, those same five guilders equaled approximately 13.15 French francs, but only \$1.66 U.S. What can that Dutch wine merchant buy for his five guilders? Landed, before duty is paid, and before the 18% sales tax is paid? From France, he's got quite a choice: AOC Burgundy, Chablis, Crozes-Hermitage, two bottles of Cotes du Rhone, Macon Blanc Villages, *cru* Beaujolais such as Chenas, three bottles of cheap vin de table, two bottles of top-quality vin de table, cheap Medoc, Montaigne de St-Emilion, and Blaye, Bourg, etc. From California, that merchant could buy, for the same five guilders, semi-generic red/white table wine or, maybe, a non-vintage varietal. But even if he could buy Cabernet Sauvignon for that price, the wine would have to compete with two bottles of Bordeaux Rouge for the same money. It's no help, either, that it costs 80¢ to ship a case of wine to Holland from France and \$2 to send a case to Holland from the states. While in Holland I checked retail shelf prices: \$2.59 per 750 for AOC Chablis and \$3.70 for Beaujolais Blanc (Chardonnay). Tough to beat.

EXHIBIT B

TABLE 31.—U.S. GRAPE INDUSTRY

[Production by State, tons]

State	1978	1979	1980	1981	1982
Arizona.....	14,300	13,500	12,400	12,400	15,100
Arkansas.....	8,200	8,200	6,600	6,000	10,500
California.....	4,017,000	4,558,000	5,124,000	3,993,000	6,138,000
Michigan.....	67,500	58,500	49,500	53,000	58,500
Missouri.....	3,300	4,500	4,200	2,200	2,500
New York.....	188,000	165,000	175,000	150,000	157,000

TABLE 31.—U.S. GRAPE INDUSTRY—Continued

[Production by State, tons]

State	1978	1979	1980	1981	1982
North Carolina.....	6,800	5,800	5,800	5,100	4,500
Ohio.....	12,000	12,000	12,000	10,300	9,000
Pennsylvania.....	57,500	55,500	56,000	61,000	47,000
Washington.....	187,000	102,800	145,100	159,000	168,900
Other States.....	5,100	5,200	4,500	5,600	5,200
Total.....	4,566,700	4,989,000	5,595,100	4,457,600	6,616,200

Source: U.S. ITC Investigation No. 701-TA-210, March 1984.

Exhibit C

Imported vs. Domestic Wine Prices

A Survey of Prices
for the
National Association of Beverage Importers

March 1984

Steve L. Barsby & Associates, Inc. Falls Church, Virginia
--

Imported vs. Domestic Wine Prices

Executive Summary

We compare prices of more than 200 popular domestic and imported brands of wine over the course of 3 years in 5 geographically separated U.S. markets. Average prices for domestic versus imported wines were calculated at the supplier, wholesaler and retail levels for both 750ml and 1.5L bottle sizes.

We found that average prices of imported wines were higher than those of the domestic wines in every market, at each level of distribution, in each year, and for both sizes. The current retail price advantage of domestic wines across the five state markets in the 750ml size averages 31.6%. In the 1.5L size this advantage is 39.3%. Based on our research, we conclude that the leading domestic wines have a price advantage over the leading imported wines.

Imported vs. Domestic Wine Prices

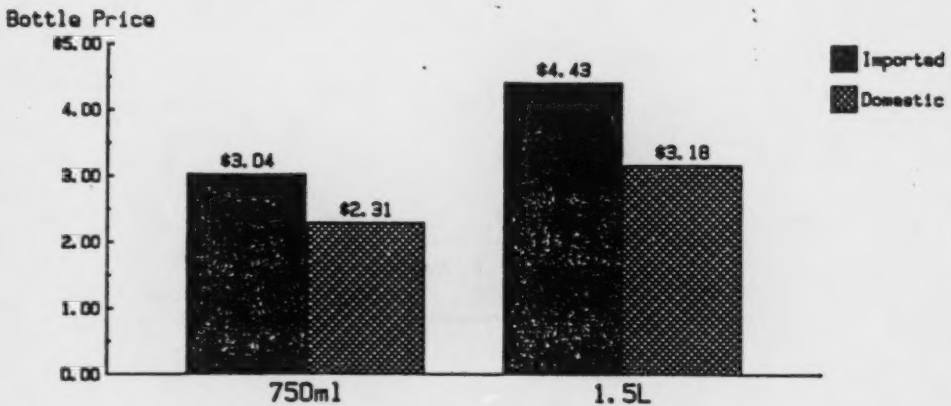


Exhibit D

COUNCIL REGULATION (EEC) No 1873/84

of 28 June 1984

authorizing the offer or disposal for direct human consumption of certain imported wines which may have undergone oenological processes not provided for in Regulation (EEC) No 337/79

THE COUNCIL OF THE EUROPEAN COMMUNITIES

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (EEC) No 337/79 of 5 February 1979 on the common organization of the market in wine (¹), as last amended by Regulation (EEC) No 1208/84 (²), and in particular Article 51 (1) thereof,

Having regard to the proposal from the Commission,

Whereas Article 50 (1) (a) of Regulation (EEC) No 337/79 lays down that the products referred to in Article 1 (2) (a) and (b) of that Regulation may be imported only if they are accompanied by a certificate attesting that they comply with the provisions governing production, marketing and, should such be the case, supply for direct human consumption in the third countries in which they originate;

Whereas Article 51 (1) of Regulation (EEC) No 337/79 lays down that products imported from third countries and falling within heading No 22.05 of the Common Customs Tariff which have undergone oenological practices not allowed by Community rules, or which do not conform either to the provisions of that Regulation or to those adopted in implementation thereof, may not, except by way of derogation, be offered or disposed of for direct human consumption;

Whereas Article 2 (2) of Council Regulation (EEC) No 334/79 of 5 February 1979 laying down general rules for the import of wines, grape juice and grape must (³), as last amended by the 1975 Act of Accession, exempts from the requirement to present the above-mentioned certificate imports of wine originating in and coming from third countries whose annual exports to the Community are less than 1 000 hl; whereas, in view of the current level of exports of United States wines to the Community, an arrangement should be introduced which is more appropriate to the situation;

Whereas, with the aim of fostering the harmonious development of trade in wine products between the Community and the United States of America, and in view of the effectiveness of the control system in force

in the United States and the particular extent to which compliance with provisions governing the production, marketing and disposal of wine for direct human consumption is thereby ensured, the import into the Community of United States wines which have undergone certain oenological processes not provided for by Community rules should be authorized if, in the present state of scientific knowledge, those processes have been shown to be identical or almost equivalent to oenological processes permitted in the Community; whereas other oenological processes in use in the United States which are not permitted in the Community necessitate further scientific research; whereas, therefore, authorization for the import into the Community of United States wines which have undergone such processes should be limited to a certain period; whereas, however, it should be made clear that such authorization may be reviewed at any time, after consultation with the United States authorities, in particular were it to be found that the use of certain oenological practices could present a public health risk;

Whereas, in a letter sent to the Government of the United States of America on 6 July 1983, the Community, represented by the Commission, expressed the intention of modifying Community provisions in respect of oenological processes with a view to encouraging trade in the wine sector; whereas the necessary provisions should therefore be incorporated in Community legislation in order to put those modifications into effect;

Whereas the Government of the United States of America undertook in its letter dated 26 July 1983 to delete from the American provisions a large number of substances whose use has hitherto been permitted in the manufacture of wine, and to replace expressions having little meaning in such provisions with scientific terms, thus making identification easier; whereas the Government of the United States of America further undertook to ensure that geographical names referring to a Community wine-growing area were no longer used as generic names unless such use was traditional; whereas the Government of the United States of America also undertook to work in constant collaboration with the Community with the object of expanding scientific knowledge on certain oenological processes referred to in 1 (b) of the Annex to this Regulation; whereas, moreover, the United States Government recognized the need to establish collaboration between on the one hand, the competent autho-

(¹) O J No L 54, 5. 3. 1979, p. 1.

(²) O J No L 113, 1. 5. 1984, p. 77.

(³) O J No L 54, 5. 3. 1979, p. 97.

rities in the Member States, coordinated if necessary by the Commission, and on the other hand, the competent American authorities in order to facilitate the prevention of fraud; whereas these commitments should, therefore, be respected and provision should be made for certain derogations from Article 51 (1) of Regulation (EEC) No 337/79,

provisions in force in that country on the grounds that one or more of the oenological processes listed in 1 (a) and (b) of the Annex may have been used.

3. Wines derived from grapes harvested and vinified on the territory of the United States of America which have been the subject of the addition of sugar in aqueous solution may not be offered or disposed of for direct human consumption in the Community.

HAS ADOPTED THIS REGULATION:

Article 1

1. By way of derogation from Article 51 (1) of Regulation (EEC) No 337/79, it shall be permitted to offer or dispose of for direct human consumption in the Community products falling within heading No 2205 of the Common Customs Tariff and derived from grapes harvested and vinified on the territory of the United States of America for which, in accordance with United States provisions, one or more of the oenological processes listed in 1 (a) and (b) of the Annex to this Regulation may have been used during manufacturing or storage operations.

However, this authorization shall only be valid, as regards use of the oenological processes listed in 1 (b) of the Annex, until 26 July 1988.

2. Member States may not prohibit the offer or supply for direct human consumption of wine derived from grapes harvested and vinified on the territory of the United States of America in accordance with the

Article 2

Producer Member States shall forward to the Government of the United States of America the list of their protected geographical designations of wines in the Community which they wish to see protected by the United States in accordance with the commitment entered into by that country.

Article 3

The Commission shall ensure the publication in the *Official Journal of the European Communities*, 'C' series, of the value limits laid down by the provisions of the United States of America for the use of the substances listed in the Annex to this Regulation. It shall keep such publication up to date if changes are made to the American provisions.

Article 4

This Regulation shall enter into force on the third day following its publication in the *Official Journal of the European Communities*.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Luxembourg, 23 June 1984.

For the Council
The President
H. BOUCHARDEAU

ANNEX

1. Oenological processes permitted

(a) without any time limit:

- catalase derived from *Aspergillus niger*,
- glucose oxydase derived from *Aspergillus niger*,
- ferrous sulphate,
- oxygen,
- soya flour;

(b) until 26 July 1988 at the latest:

- dimethylpolysiloxane,
- polyoxyethylene-40-monostearate,
- sodium carboxymethylcellulose,
- sorbitan monostearate,
- calcium sulphate,
- substances composed of potassium ferrocyanide and aqueous ferrous sulphate, possibly combined with copper sulphate and active carbon,
- fumaric acid,
- ion-exchange resins,
- lactic acid,
- malic acid,
- polyvinylpyrrolidone (PVPP),
- polyvinylpyrrolidone (PVP).

2. Oenological processes which are identical to, or comparable with, those permitted in the Community

(a) oenological processes which are identical:

- acacia (gum arabic),
- activated carbon,
- animal albumen (including egg white powder and egg white solution),
- ammonium phosphate (dibasic),
- ascorbic acid,
- bentonite (Wyoming clay),
- bentonite slurry,
- carbon dioxide,
- casein,
- citric acid,
- compressed air (aeration),
- copper sulphate,
- diatomaceous earth,
- enzymes: pectolytic, derived from *Aspergillus niger*,
- gelatin,
- gelatin slurry,
- isinglass,
- nitrogen gas,
- potassium bitartrate,
- potassium caseinate,
- potassium metabisulphite,
- potassium sorbate,
- silica gel (colloidal silicon dioxide — 30 %),
- sorbic acid,
- tannin,
- tartaric acid,
- Calcium carbonate, possibly containing small quantities of double calcium salt of tartaric L (+) and malic L (—) acid;

(b) oenological processes which are comparable:

- Agar agar,
 - ammonium carbonate,
 - ammonium phosphate (monobasic),
 - granular cork,
 - milk powder,
 - oak chips sawdust, uncharred and not treated,
 - potassium carbonate,
 - carrageenan,
 - cellulase derived from *Aspergillus niger*,
 - cellulose,
 - autolyser yeast.
-

Exhibit E

JUL 18 1984

OFFICE OF THE UNITED STATES
TRADE REPRESENTATIVE
EXECUTIVE OFFICE OF THE PRESIDENT
WASHINGTON
20506

FOR IMMEDIATE RELEASE
Monday, May 21, 1984

Contact: 84/15
David Demarest
(395-4647)
Desiree Tucker
(395-4647)

JAPANESE ACTIONS ON WINE AND PAPER, A POSITIVE STEP FORWARD

Negotiators for the Office of the U.S. Trade Representative said today that they are confident that the recent tariff cuts by the Japanese Government on wine and paper products will mean new sales for U.S. exporters. The tariff cuts affect four wine categories and nine paper products, effective April 1, 1985.

Ambassador Michael B. Smith said, "These cuts represent a positive first step toward increased opportunity in the Japanese market for two highly competitive U.S. products. We hope this step leads to another tariff reduction bringing the Japanese duties on wine and paper products substantially closer to U.S. levels."

The wine tariff cut is a reduction from 55%-38% on the maximum ad valorem duty on bottled wine, about 31% reduction on the average liter of U.S. wine imported into Japan. Bulk wine, sparkling wines including champagne, and fortified wines such as port and sherry will also have lower duty rates beginning April 1985.

U.S. exports to Japan of bottled wine were \$1.6 million in 1982 compared with European exports of about \$30 million.

On paper products, most of the tariff cuts are accelerations of the Multilateral Trade Negotiation (MTN) tariff cuts which will be phased in over a three year period. Four varieties of kraft linerboard and kraft paper will have duties reduced from the current 9.3% to 8.5% beginning April 1985, 7.7% in 1986, and 7% in 1987. Under the previous MTN schedule the tariff cuts would not have taken effect until 1992.

Duties on coated and impregnated paper and paperboard will be reduced from the current 5.1% to 4.8% in 1985, 4.4% in 1986, and 4% in 1987. White paperboard and heavier kraft paperboard will be reduced from the current 5.9% to 5% in 1985. The previous MTN schedule called for a 5% duty in 1990.

U.S. exports to Japan of the nine paper products totalled over \$166 million in 1983.

Exhibit F

**A PARTIAL LIST OF AMERICAN WINERIES WHICH ARE OPPOSED
TO THE WINE EQUITY AND EXPORT EXPANSION ACT OF 1984**

Almaden Vineyards, San Jose, California

Vineyards - 5,600 acres
Storage - 40,500,000 gals
Bottling - 9,200,000 cases/1983
Crush - 3,300 tons/day

Beaulieu Vineyard, Rutherford, California

Vineyards - 750 acres
Storage - 1,300,000 gals
Crush - 818,000 gals/1983

Beringer Vineyards/Los Hermanos Vineyards, St. Helena, California

Vineyards - 2,800 acres
Storage - 2,249,576 gals
Fermenting - 489,860 gals
Bottling - 10,000 cases/day

Callaway Vineyards, Temecula, California

Vineyards - 150 acres
Storage - 574,740 gals
Fermenting - 450,140 gals
Bottling - 1,800 - 3,600 cases/day
Crush - 229,665 gals/1983

Domaine Chandon, Yountville, California

Vineyards - 1,500 acres
Storage - 1,600,000 gals
Bottling - 400,000 cases/1983
Crush - 1,023,000 gals/1983

Gold Seal Vineyards, Hammondsport, New York

Vineyards - 1,079 acres
Storage - 2,771,000 gals
Fermenting - 2,000,000 gals
Bottling - 1,280,000 cases/1983
Crush - 531,000 gals/1983

Great Western/Taylor, Hammondsport, New York

Vineyards - 2,721 acres
Storage - 35,600,000 gals
Fermenting - 4,210,000 gals
Bottling - 11,540,000 cases/year
Crush - 8,175,470 gals/1983

[cont'd...]

Inglennook Vineyards, Rutherford, California

Vineyards - 157 acres
 Storage - 104,600,000 gals
 Crush - 13,520,000 gals/1983

Lawrence Winery, San Luis Obispo, California

Vineyards - none
 Storage - 560,000 gals including fermenting
 Bottling - 80,000 cases/1983
 Crush - 544,000 gals/1983

Paul Masson Vineyards, Saratoga, California

Vineyards - 4,122 acres
 Storage - 36,907,000 gals
 Fermenting/Crushing - 18,000,000 gals
 Bottling - 11,000,000 cases 1983
 Crush - 13,569,200 gals/1983

San Martin Winery, San Martin, California

Vineyards - 10 acres
 Storage - 2,800,000 gals
 Fermenting - 1,500,000 gals
 Bottling - 375,000 cases/1983
 Crush - 969,000 gals/1983

Simi Winery Inc., Healdsburg, California

Vineyards - 172 acres
 Storage - 706,830 gals
 Bottling - 1,460,000 cases/1983
 Crush - 394,000 gals/1983

Sterling Vineyards, Calistoga, California

Vineyards - 967 acres
 Storage - 535,600 gals
 Fermenting - 200,000 gals
 Bottling - 396,000 cases/year
 Crush - 343,470 gals/1983

Taylor California Cellars/Monterey Vineyard, Gonzales, California

Vineyards - none
 Storage - 23,500,000
 Fermenting - 2,800,000
 Bottling - 10,000,000 cases 1983
 Crush - 21,337,850 gals/1983

July 1984



Exhibit G

Long Island Grape Growers Association

April 2, 1984

Congressman William Carney

2400-Ocean Ave.

Farmingville, N.Y. 11738

OFFICERS

President
DAVID L. MUDD
765-1248

Vice President
CHRISTIAN F. BAIZ, III
765-2657

Secretary
WILLIAM J. SANOK
727-7850

Treasurer
RICHARD RESSLER
734-5182

DELEGATES

Southold Town
DANIEL ALICK
765-2390

Southampton Town
RICH HARRICH
537-3155

Riverhead Town & West
ROBERT GRANGER
722-3034

At Large
SHIRB C. BROWN
383-2010
JUDITH L. BITTS
331-2323

Dear Congressman Carney,

The Long Island Grape Growers Association passed the following resolution by majority vote at our Board of Directors meeting in Riverhead on Saturday March 31, 1984.

We are opposed to the passage of the "Wine Equity Act" due to the following reasons:

- 1) Our country was founded on free trade
- 2) We believe a tariff or duty on imports could bring reciprocal penalties on our exports of farm commodities
- 3) The value of the Dollar in trading with foreign countries is the overriding influence in bringing in wine and goods from Europe to our present disadvantage

Please be advised our group comprises more than 80 members at present and we seek the help of your good offices in our behalf.

Sincerely,

David L. Mudd; President

EXHIBIT H

[The Washington Post, Sunday, July 15, 1984]

U.S. FARMERS BACK FREE TRADE

(By Stuart Auerbach)

PERRY, IOWA.—Looking out over a square mile of prime black-loamed farmland that stretches behind his house here, Raymond Heck said that overseas markets for his soybean and corn crops are crucial for his survival as a farmer.

"We can't afford to grow for the American public at the price they want to pay. We've got to have a bigger market than our domestic market to survive," he declared.

With half of America's wheat, soybean and cotton crops destined for export and one-fourth of U.S. farm income coming from overseas sales, farmers in America's Midwestern grain belt such as Heck have turned into the country's prime defenders of free trade. As free traders, they have taken the place of organized labor, which increasingly is pressing for trade protection from a flood of foreign-made manufactured goods that it says are hurting U.S. industries.

Driven by a growing concern over their exports, the corn, soybean and wheat farmers have stepped into the middle of major trade controversies such as steel quotas, domestic-content requirements for cars and restrictions on textile imports. "There isn't any such thing as a nonagricultural trade-issue," said Heck, who with his son runs a 1,300-acre farm here, about an hour's drive north of the state capital of Des Moines. He is immediate past president of the Iowa Soybean Association.

"Any time you have restrictions on trade, soybeans will be one of the first things that will be clamped down on," Heck continued.

The European Community made that point abundantly clear in Washington last month. Claus-Viediter Ehlermann, the EC director general for legal services, included a not-so-veiled threat of possible retaliation against America's \$3.5 billion soybean exports to Europe in his argument to the International Commission against protection of U.S. steel makers.

Aware of the EC's comment, John Baize, director of the American Soybean Association's Washington office, said, "Steel is the next thing we are going after."

Winston Wilson of U.S. Wheat, which handles exports for wheat growers, said Peru asked his help in getting a larger quota for cotton drill cloth "of they won't buy our wheat." Michael Hall, Washington representative of the National Corn Growers Association, worries that Chile will switch its grain purchases to other countries if the White House imposes higher tariffs or quotas on its copper imports.

"Decisions on steel, copper and textiles have a direct impact on large grain sales," Hall said.

The potent political strength of American farmers is becoming well recognized in Washington.

"They have been very, very constructive, very, very supportive, very, very helpful," said U.S. Trade Representative William E. Brock.

"They are more than any other single community in the country aware of the implications of nonagriculture trade decisions and their effects on agriculture. They have replaced the trade unions as the major proponents of free trade in the country," continued Brock, the White House's major domo for trade matters.

The farm groups burst suddenly into the debate on nonagricultural trade issues 19 months ago when they mounted a campaign against domestic-content legislation. That bill, strongly supported by organized labor, is aimed at Japanese imports and would require all auto makers to use an increasing percentage of American parts and labor, based on sales, on all cars sold in this country. It has passed the House twice, but is stalled in the Senate.

The farm coalition against domestic content was forged by Robert N. Hampton, a long-time specialist in international agriculture issues who now works as a consultant for both the Grange, a farm group, and the Automobile Importers of America.

Farmers fear the U.S. restrictions on cars imported from Japan will give Europeans an excuse to end the duty-free entry of American soybeans and corn gluten feed into the EC's Common Market. U.S. sales to the EC of those two commodities, used for oil and animal feed, amount to at least \$4.2 billion a year.

"The agricultural perception is that the risk is urgent and greatest from the Europeans," Hampton said.

Japan, moreover, has been America's largest agriculture market since 1963 and last year bought \$7 billion in U.S. farm products—an increase of \$1 billion from 1982. Although farm experts think Japan is unlikely to retaliate directly, they pre-

dict that passage of domestic-content legislation would trigger a sharp reduction in its U.S. purchases.

"I think domestic content is the avenue back to the '30's," Heck said, referring to the cycle of protectionism that helped create a world-wide depression. "Every protectionist act calls for another one. It's just automatic."

The dollars-and-cents reality of trade retaliation was brought home to American farmers last fall when China stopped buying American farm goods until the Reagan administration agreed to permit the importation of more Chinese textiles.

That Chinese boycott cost American farmers an estimated half-billion dollars, which they say is far more than the textile industry would have gained.

"The China incident really started the major farm interest in nonagricultural trade issues," said Clayton Yeutter, president of the Chicago Exchange and a former Assistant Secretary of Agriculture and deputy U.S. Trade Representative.

Baize took the lead in opposing the "Wine Equity Act," a measure supported by California wine growers that would limit European wine sales in the United States.

Heck said the realization of the connection between farmers' overseas sales and nonagriculture trade issues came to farm leaders four or five years ago, but took time to reach the bulk of the farmers.

But as long ago as 1973, when then President Richard M. Nixon placed an embargo on soybean exports because he thought prices were too low and there would be a shortage in the U.S. market, farmers saw how government policies could hurt their overseas sales.

As a result of that embargo, Japan spent \$1 billion to develop soybean production in Brazil, creating an alternate market for itself and a major competitor for the United States. With its soybeans, furthermore, Brazil was able to develop a poultry industry that has captured traditional U.S. and European markets in the Mideast. "That incident is firmly ingrained in every soybean farmer's mind," said farmer Ben Kern of Norwalk, Iowa.

Farmers also were hurt in 1980 when President Jimmy Carter slapped an embargo on grain sales to the Soviet Union over its invasion of Afghanistan. President Reagan later lifted the grain embargo, but only after the United States had gained the reputation as an unreliable supplier.

All this had made American farmers more aware than ever of the importance of exports to their incomes. Despite an estimated record \$130 billion trade deficit this year, America's agricultural exports have averaged a \$20 billion surplus every year since 1980.

"We now market more soybeans outside the U.S. than we produced 15 years ago, which means soybean farmers now export every other row they grow, plus the end rows," said Dick Gallagher, president of the Iowa Soybean Association.

Not all American farmers share the same stance on free-trade issues. Dairy and livestock farmers support import quotas, and the American Farm Bureau Federation often straddles the fence on trade issues because of its varied constituencies.

EXHIBIT I

[The Journal of Commerce, Friday, June 29, 1984]

SOUR GRAPES

Those little old winemakers are at it again.

The first time a group of California vintners and grape growers tried to put one over on the U.S. wine consumer and U.S. trading partners, it proposed the Wine Equity Act, which would have restricted American imports of European wines and created another source of rancor over trade policy with the European Community.

That effort got nowhere.

Now, under the guise of a compromise bill, the wine exporters have come up with a draft Wine Equity and Export Expansion Act, which redoubles the errors of the first proposal—and doubly deserves its fate.

The Original Wine Equity Act was initially presented to legislators as a competitive, free-trade proposal that would open up European and world markets to U.S. wine exporters. Proponents claimed it would open up the U.S. market more to imports as well.

But in fact, the bill—a so-called "fair trade" measure based on the concept of reciprocity—would have actually constricted imports of foreign products.

The California winemakers and grape growers who backed the measure accused Europe of restricting the entree of U.S. wine exports with unfair trade subsidies and dumping.

Those charges were disproved conclusively by the U.S. government and by wine importers. The real villains, they found, were the unfortunate overplanting and overcapacity of both the U.S. and European industries and the high value of the U.S. dollar abroad.

The Wine Equity Act was a poorly-veiled attempt to make European wine exporters the fall guys for the difficulty of U.S. vintners in penetrating their markets. Although it aroused initial support in Congress and the White House, the bill's protectionist intent finally became apparent. The Senate Finance Committee's staff has reported that no hearings are scheduled for it.

Then the proposal's supporters promised they would return with a draft of a measure that would truly enhance U.S. exports—but not at the price of restricting imports. It was to be a compromise bill, accommodating the many other interests that interest on this issue.

Although the proposed Wine Equity and Export Expansion Act has not yet been formally presented on the Hill, the proposals we have seen resurrect the specious arguments of its forebear—and aim at restricting imports.

The bill would require the president to investigate the trading practices of each major trading partner of wine—about 20 countries—under Section 301 of the Trade Act of 1974 for tariff and non-tariff barriers on wine. (Under the act as it exists, the president has this authority to use at his discretion.) If violations are detected, the country in question could be subject to various sanctions.

We question the financial and political prudence of subjecting trading partners to such scrutiny before they've aroused complaint, merely on the basis of being players in this market—and especially after it's been determined that they don't deserve punishment.

The supporters of this new "compromise" package evidently have less-than-high opinions of the judgment and wisdom of their opponents and the Congress if they think this version is acceptable.

It's speculated that the bill's proponents, rather than attempting to win wide congressional support in the open, will have it introduced through some procedural technique such as a floor amendment or as a committee mark-up. We hope lawmakers have the vision to see through this attempt.

Most major U.S. wine exporters are as opposed to this second bill as they were to the first. Only Gallo wineries and some small producers, under the aegis of The Wine Institute, a trade group in San Francisco, have supported both measures.

These vintners and the grape growers have a Plan B they also are pursuing. Under an arcane state law that never has been challenged, California allows growers and processors of a commodity to form an industry league to promote their sales. The language of this entitlement empowers the leagues to negotiate with foreign powers.

The law's constitutionality has never been challenged, but it should be—and soon.

In Congress and with Plan B, the intent is apparent: If these exporters can't make their way into European markets with good products and good salesmanship, they'll muscle in any way they can.

Imported vs. Domestic Wine Prices

A Survey of Prices
for the
National Association of Beverage Importers

March 1984

Steve L. Barsby & Associates, Inc. Falls Church, Virginia
--

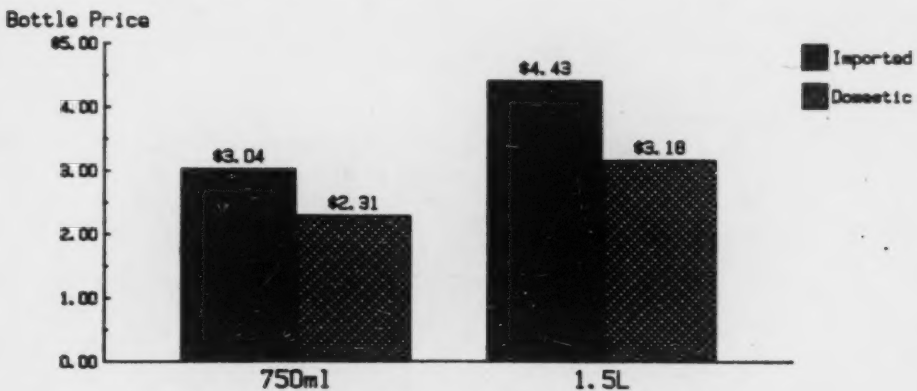
Imported vs. Domestic Wine Prices

Executive Summary

We compare prices of more than 200 popular domestic and imported brands of wine over the course of 3 years in 5 geographically separated U.S. markets. Average prices for domestic versus imported wines were calculated at the supplier, wholesaler and retail levels for both 750ml and 1.5L bottle sizes.

We found that average prices of imported wines were higher than those of the domestic wines in every market, at each level of distribution, in each year, and for both sizes. The current retail price advantage of domestic wines across the five state markets in the 750ml size averages 31.6%. In the 1.5L size this advantage is 39.3%. Based on our research, we conclude that the leading domestic wines have a price advantage over the leading imported wines.

Imported vs. Domestic Wine Prices



Imported vs. Domestic Wine Prices

Table of Contents

List of Tables	1
List of Figures	1
Introduction	1
Methodology	1
Summary of Findings	4
Retail Level	4
Wholesale Level	5
Supplier Level	5
Advertised Retail Prices in the Five Markets	6
Published Wholesale Prices in the Five Markets	11
Supplier Prices	13
Revised Prices	15
Analysis	16
Conclusion	18
Appendix: Wine Brands Used in Price Comparisons	19

List of Tables

Wineries and Wine Lines Included In Study	2
Advertised Retail Wine Prices In Five Metropolitan Markets	9
Published Wholesale Prices of Wine In Five Metropolitan Markets 1981 - 1983	12
Supplier Wine Prices 1981 - 1983	14

List of Figures

Imported vs. Domestic Wine Prices (Retail Level)	4
Imported vs. Domestic Wine Prices (Wholesale Level)	5
Imported vs. Domestic Wine Prices (Supplier Level)	6
Retail Prices by Metropolitan Area	10
Wholesale Prices by Metropolitan Area	13
Supplier Prices by Year	15

Imported vs. Domestic Wine Prices

Introduction

This study compares prices of domestic and foreign wines in five U.S. markets--New York, Florida, Illinois, Colorado and California. The purpose is to determine whether the dominant imported wines are selling at prices less than, about equal to, or greater than those of the major domestic wines. At the wholesale level we gathered prices in each market for November of 1981, 1982 and 1983. At the retail level we monitored prices during October and November of 1983. Supplier prices in Maryland in November of these three years were collected and used as the basis for that level's average prices.

This study emphasizes overall pricing averages and patterns rather than price comparisons among individual wine lines. Our goal is to reach a conclusion regarding whether prices of imported wines are higher or lower than those of domestic wines, not to make precise estimates of the magnitudes of any observed differences.

Methodology

We selected brands from the large domestic wineries and wine marketing groups, and from high-volume import lines of wines. In the import group, each of the top-ten brands is included. Sixteen of the top-twenty brands make up the sample. All told, the imported brands used for the price comparisons account for about 64% of the imported table and sparkling wine volumes.

In the domestic group, we selected high-volume brands from 11 wineries, including those from each of the 10 largest U.S. wineries. The wineries on our list supply an estimated 62% of

the U.S. wines. The wineries and wine lines included in this study are shown below.

Wineries and Wine Lines Included in Study

<u>Domestic</u>	<u>Imported</u>
Allied Wine Co.	Blue Nun
Almaden	Bolla
Canandaigua	Canel
Gallo	Cella
Gulld	Folonari
Inglennook	Frlexenet
M. LaMont	Giacobazzi
Monarch	Lancers
Paul Masson	Mateus
Sebastiani	Mouton Cadet
Taylor (includes	Partager
Taylor Calif. Cellars &	Riunite
Great Western)	Tytell
Wine Group	Villa Banfi
	Yago
	Zonin

Because each winery and wine line sells many labels, the lists of domestic and imported labels included in the study are much longer than the lists above. We tracked prices of 185 domestic labels and 52 imported labels, with prices for both 750ml and 1.5L containers recorded when available. The entire list of wine brands whose prices were tracked appear in the Appendix.

We compared prices between domestic and imported brands at three levels of the distribution chain:

- 1) Supplier-to-wholesaler prices, represented by the November 1981, 1982 and 1983 posted prices in Maryland;
- 2) Wholesaler-to-retailer prices, represented by the November 1981, 1982 and 1983 single-case published prices in Wholesaler Journals in each of the five markets; and

- 3) Retail prices as measured by advertised prices (net of any coupons or manufacturer refunds) over a six-week period between October 3, 1983, and November 10, 1983, in the major metropolitan area in each of the state markets.

The five state markets--New York, Florida, Illinois, Colorado and California--represent a geographic diversity while capturing a significant portion of the U.S. market. Supplier prices in Maryland were used because prices are "posted" (e.g., suppliers formally notify the Maryland Alcoholic Beverage Control Commission of their prices), and the data for each of the three years were readily available. Maryland's proximity to the Atlantic Ocean gives imported wines a shipping cost advantage (longer distances for domestic, and shorter distances for imported wines).

We averaged observed prices for individual brands to obtain estimates of wineries' prices in each of the five markets. Both average domestic and imported prices were calculated in the five markets based on the U.S. market share held by each of the wineries in our sample. The U.S. average domestic and import prices were then represented by a simple average of the prices found in the five markets.

Examination of our sample revealed that a number of low-priced wine brands are marketed by leading domestic wineries. In addition, our list of major imported wine brands gave the appearance of being "premium-brand heavy" (see Appendix). Because of these considerations, we calculated a set of "revised" average prices for the domestic and imported wines after removing the extremes (three of the least expensive domestic wines and two of the most expensive imported wine lines) from the brands included in our sample.

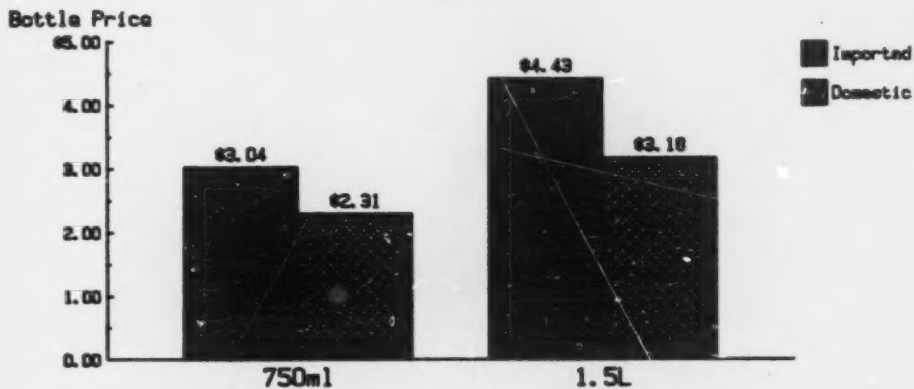
Summary of Findings

We found that domestic wines are priced lower than imported wines. The data are consistent for 1981, 1982 and 1983; at each of the three levels of distribution; and across the five markets used for the study. The sole exception to this general finding is the advertised 750ml bottle prices in New York. This exception to the general results is discussed later.

Retail Level

At the retail level, bottle prices of the 750ml domestic wines averaged \$2.31 compared to \$3.04 for their imported counterparts. Prices of the domestic 1.5L containers averaged \$3.16 versus \$4.43 for the imported brands of this size. These findings put prices of imported 750ml brands 31.6% higher than the same size domestic brands; and imported 1.5L containers 39.3% above the same-sized domestic brands.

Imported vs. Domestic Wine Prices (Retail Prices)

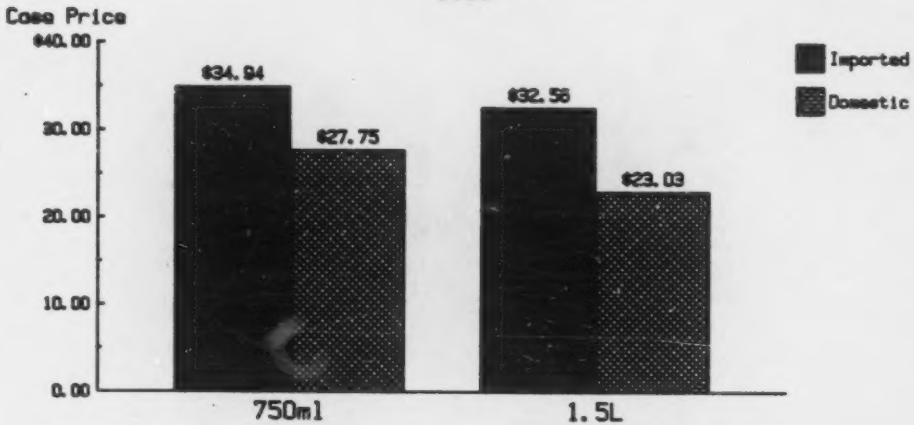


Source: Compiled from local newspapers.

Wholesale Level

Average wholesaler domestic 750ml per-case wine prices in the five markets for 1981, 1982 and 1983 were \$26.44, \$27.60 and \$27.75 respectively. These prices were 25% to 28% below the 750ml imported wine prices in each of the 3 years. The gap was even larger for case prices of the 1.5L containers, where domestic wine prices in the 5 markets averaged over 40% lower than their imported counterparts in each year.

Imported vs. Domestic Wine Prices (Wholesale Level) 1983



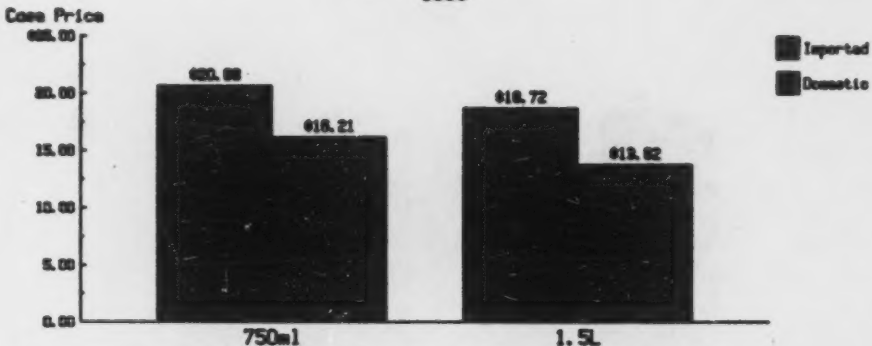
Source: State Beverage Journals.

Supplier Level

Domestic prices for the 750ml size averaged \$15.65, \$16.43 and \$16.21 per case in 1981, 1982 and 1983 respectively. Those of imported wines were between \$20.00 and \$21.00 in each year. As a result, 750ml domestic brands had a price advantage of 25% or more in each year.

As with wholesale and retail levels, the price advantage held by domestic brands at the supplier level was wider for the 1.5L size. Average supplier prices for domestic brands rose gradually between 1981 and 1983 from \$12.44 per case to \$13.82 per case, while the imported price per case fell slightly from \$19.09 to \$18.72. As a result, the domestic price advantage ended the comparison period with a \$4.90 per case advantage, down from \$6.65 in 1981.

Imported vs. Domestic Wine Prices (Supplier Level) 1983



Source: Maryland ABC.

Advertised Retail Prices in the Five Markets

We have considered the relevancy of advertised prices for inferring something about shelf prices, and the extent to which local advertising support reflects market shares. That is, can advertised prices be used for the purpose at hand? Since we have no interest in the price structure per se, any distortions which may appear in the price structure through our use of advertised prices are not important. We must address, however, whether advertised prices are appropriate for detecting the types of price differences in which we are interested.

In the majority of instances, an advertised price will be less than its normal shelf price. Thus, the use of advertised prices introduces a general downward bias into the price calculations. While this might not happen if only the more expensive brands are advertised, review of our data shows that less expensive wines receive the most frequent price advertising support.

Since the goal of our study is to compare relative price levels, however, this general lowering of prices is only a problem if the bias acts differently on imports than on domestics and is large enough to neutralize or reverse the observed price relationships. This does not appear likely, as the general results of the price comparisons based on advertised prices are not dramatically different than those we found in listed prices at the supplier and wholesaler levels. Furthermore, review of the brands advertised indicates that, with few exceptions, the high-volume wines are those which receive the most advertising support. We conclude that advertised prices, while a second choice to actual shelf prices, are sufficient for the purpose at hand.

The Advertising Checking Bureau, possibly the major firm in the U.S. for monitoring newspaper advertising, reviewed newspapers in each of the five metropolitan market areas and supplied copies of all wine advertisements published on the "best food day" which carried a price mention of any wine. Over the six-week measurement period, 2,304 price mentions were found for the 237 wine labels included in this study.

The newspapers used to track advertised prices of the leading wines were as follows:

Metropolitan New York City
New York Times
New York Daily News
Record (Hackensack, New Jersey), including editions:
South Bergen

Metropolitan New York City (cont)
Passiac
Hudson
Reporter Dispatch (White Plains)

Chicago
Chicago Tribune
Chicago Sun-Times

Denver
Rocky Mountain News
The Denver Post

Miami
Fort Lauderdale News/Sun-Sentinel
The Miami Herald

Los Angeles
Herald Examiner
L.A. Daily News
L.A. Times, including editions
San Fernando Valley
Cintinela South Bay
West Side
Orange County North
Orange County South
San Diego
San Gabriel

The price advantage held by domestics over imports varied considerably among the five metropolitan markets. A great deal of this variation is accounted for by differences in the mix of brands having local advertising support. As noted earlier, the 750ml imports were actually advertised at a lower average price than were domestics in New York (by \$.01). In New York, advertising for the domestic 750ml size was very light, with only several wineries represented. Andre Champagne (part of Gallo) advertised most frequently, while Gallo generic brands advertised almost not at all (in the 750ml size). This disparity pulled up Gallo's average in the New York City market, and (given Gallo's overwhelming dominance in volume among those companies advertising this bottle size in metro New York) raised the domestic average above that of imports.

In the other four markets, the domestic 750ml prices were below those of imports. The domestic advantage was lowest in Miami at 17.1% (\$.51), and highest in Denver at 100.5% (\$2.14).

The variations between the domestic and imported 1.5L advertised prices among the five metropolitan areas were smaller than for 750ml bottles. Again, imports had the smallest disadvantage in Miami (21.5%), and the greatest in Denver (62.6%). In these markets, the imported 1.5L bottles had respective price disadvantages of \$.91 and \$1.64.

Advertised Retail Wine Prices in Five Metropolitan Markets

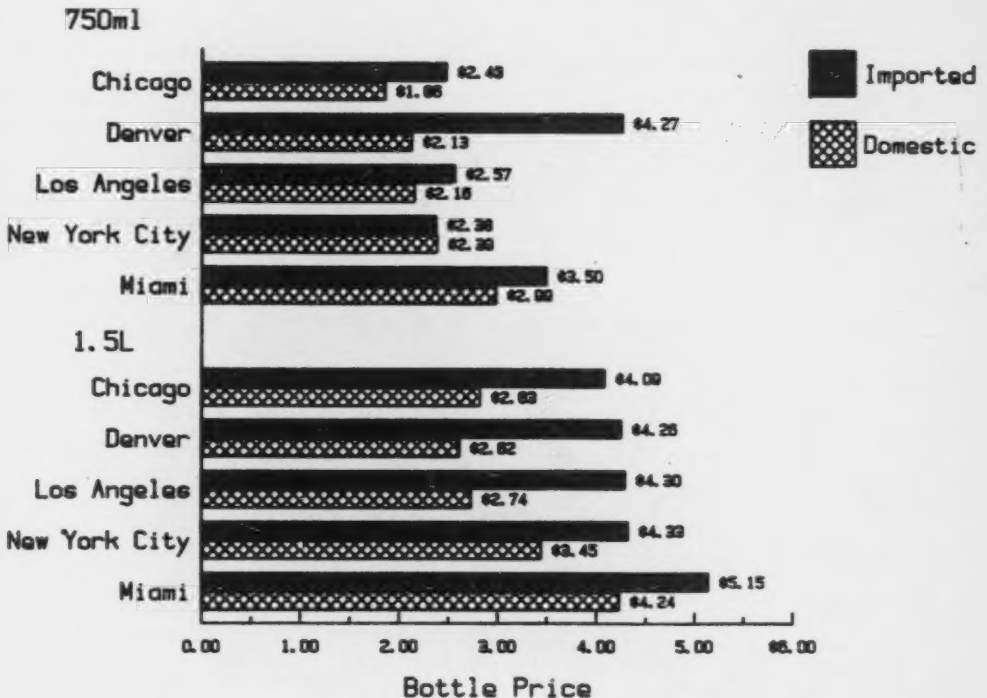
750ml Size Metro Mkt	Number of Observations		Average Price		Percentage Difference
	Domestic	Imports	Domestic	Imports	
Chicago	44	186	\$1.86	\$2.48	33.3%
Denver	59	46	2.13	4.27	100.5
Los Angeles	22	93	2.16	2.57	19.0
New York	46	215	2.39	2.38	- 0.4
Miami	10	25	2.99	3.50	17.1
Average*			\$2.31	\$3.04	31.6%

1.5L Size Metro Mkt	Number of Observations		Average Price		Percentage Difference
	Domestic	Imports	Domestic	Imports	
Chicago	463	27	\$2.83	\$4.09	44.5%
Denver	211	66	2.62	4.26	62.6
Los Angeles	180	30	2.74	4.30	56.9
New York	145	196	3.45	4.33	25.5
Miami	158	82	4.24	5.15	21.5
Average*			\$3.18	\$4.43	39.3%

*Weighted on winery volumes.

A review of advertising frequency by bottle size for imports versus domestics reveals an important difference in advertising strategy between imported and domestic brands. Imported brands more frequently were advertised in the 750ml container size (365 vs. 401), while the overwhelming support for domestic brands came in the 1.5L size (1,157 vs 181). This disparate advertising

Retail Prices by Metropolitan Area



Sources: Compiled from local newspapers.

frequency somewhat reduces the dependability of comparing advertised prices for any given container size (e.g., domestic 750ml vs imported 750ml). As a result, we converted observed advertised prices into "cost-per-ounce" and blended the price data for the two sizes. We estimate that domestic wines were advertised at an average price of \$.072 per ounce, while imports carried an average price of \$.103 per ounce. (Note: For this exercise we assumed that imported wines sell equal volumes in 750ml and 1.5L

containers, but that domestic wines sell twice as much in the 1.5L size as in the 750ml size. Alternate assumptions of sales mix by size will change the estimated price differences, but we believe our assumptions to be fair.)

Published Wholesale Prices in the Five Markets

Imported wine prices were lowest in the New York City market for all three years in both the 750ml and 1.5L containers, and highest in Miami and Denver (with one of the two always having the highest price). New York also posted the lowest domestic prices in all instances; Miami's wholesale prices were always highest.

In every market for both sizes, and in all three years, domestic wholesale wine prices were below those of imports. The disadvantage of imports in 750ml cases was smallest in New York City in 1981 and 1982, and in Miami in 1983 (ranging from 17% to 23% in the three years). The largest price disadvantages for imports were found in Denver in 1981 and 1982, and in Chicago in 1983. The disadvantage was nearly 50% in Denver in 1981, and was 33.4% in Chicago in 1983.

The New York City market also provided a clear "smallest disadvantage" to imported wines in the 1.5L size. There imports were only about 20% more expensive than domestics rather than the 40%, 50% and even 60% found in the other four markets.

We see no obvious movement in the amounts by which imports carry higher prices than domestics at the wholesale level. The average price differences for the 750ml size were \$7.48, \$6.84 and \$7.19 in 1981, 1982 and 1983 respectively. In the 1.5L size, case prices for imports exceeded those of domestics by \$9.67, \$9.66 and \$9.53 in the 3 years under study. Given the variations other factors could introduce in the calculated average prices, we do not consider these minor changes significant.

**Published Wholesale Prices of Wine in Five Metropolitan Markets
1981 - 1983**

1981

<u>City</u>	<u>750ml Avg Price</u>		<u>Percentage</u>	<u>1.5l Avg Price</u>		<u>Percentage</u>
	<u>Domestic</u>	<u>Imports</u>		<u>Difference</u>	<u>Domestic</u>	
New York	\$23.86	\$27.07	13.5%	\$20.19	\$24.20	19.9%
Miami	30.31	37.25	22.9	25.37	35.56	40.2
Chicago	27.26	35.86	31.5	22.15	33.89	53.0
Denver	25.25	37.81	49.7	21.53	35.99	67.2
Los Angeles	25.53	31.59	23.7	20.96	28.93	38.0
Average*	\$26.44	\$33.92	28.3%	\$22.04	\$31.71	43.9%

1982

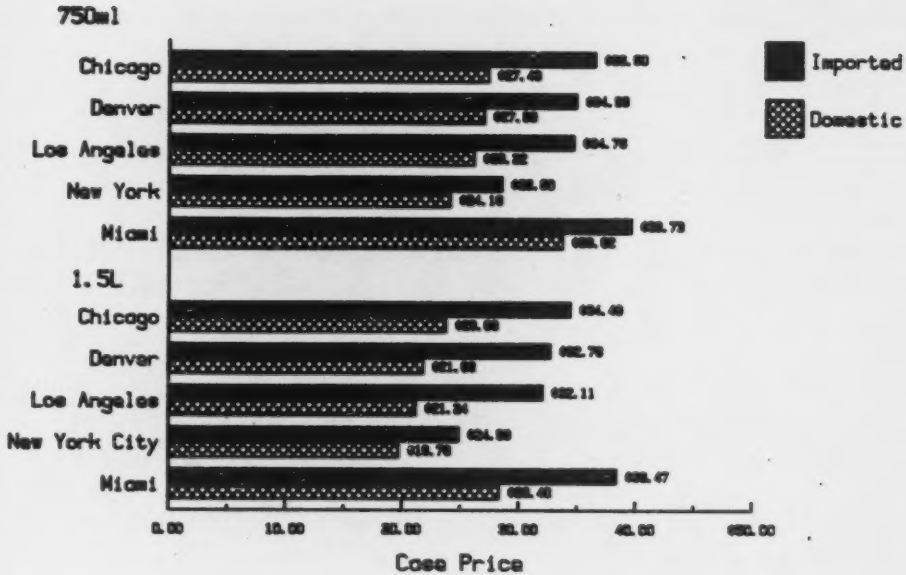
<u>City</u>	<u>750ml Avg Price</u>		<u>Percentage</u>	<u>1.5L Avg Price</u>		<u>Percentage</u>
	<u>Domestic</u>	<u>Imports</u>		<u>Domestic</u>	<u>Imports</u>	
New York	\$24.54	\$27.34	11.4%	\$20.59	\$24.53	19.1%
Miami	31.63	37.54	18.7	26.85	35.81	33.4
Chicago	27.32	36.55	33.8	23.61	34.55	46.3
Denver	27.47	38.25	39.2	22.54	36.36	61.3
Los Angeles	27.02	32.50	20.3	18.25	28.88	58.2
Average*	\$27.60	\$34.44	24.7%	\$22.37	\$32.03	43.2%

1983

	<u>750ml Avg Price</u>		<u>Percentage</u>	<u>1.5l Avg Price</u>		<u>Percentage</u>
<u>City</u>	<u>Domestic Imports</u>			<u>Domestic Imports</u>		
New York	\$24.18	\$28.60	18.3%	\$19.78	\$24.93	26.0%
Miami	33.82	39.73	17.5	28.40	38.47	35.5
Chicago	27.43	36.60	33.4	23.83	34.49	44.7
Denver	27.09	34.99	29.2	21.88	32.78	49.8
Los Angeles	26.22	34.78	32.6	21.24	32.11	51.2
Average*	\$27.75	\$34.94	25.9%	\$23.03	\$32.56	41.4%

*Weighted by winery volume.

Wholesale Prices by Metropolitan Area 1983



Source: State Beverage Journals.

Supplier Prices

As shown earlier (using Maryland as an indicator), imported wines at the supplier level are priced higher than domestic wines.

Wholesalers in the individual markets we examined may pay slightly more or less for their wines than those in Maryland, but if there is a bias in the prices, selection of this Eastern state will tend to give the advantage to imports because of the shipping costs variable. Since our supplier price data come from

a market other than those used for wholesale prices, we cannot "step through" the price progression from suppliers to wholesalers. But such limitations, while they might be critical for other purposes, do not prevent us from making dependable price comparisons between domestic and imported wines at the supplier level.

Over the three-year period, average prices of imports held virtually steady between \$20.30 and \$20.70 per case for the 750ml size. Case prices of the 1.5L containers stayed within a narrow range of \$18.59 and \$19.09. Domestic prices rose slightly, with case prices for the 750ml and 1.5L reaching \$16.21 and \$13.82 respectively in 1983.

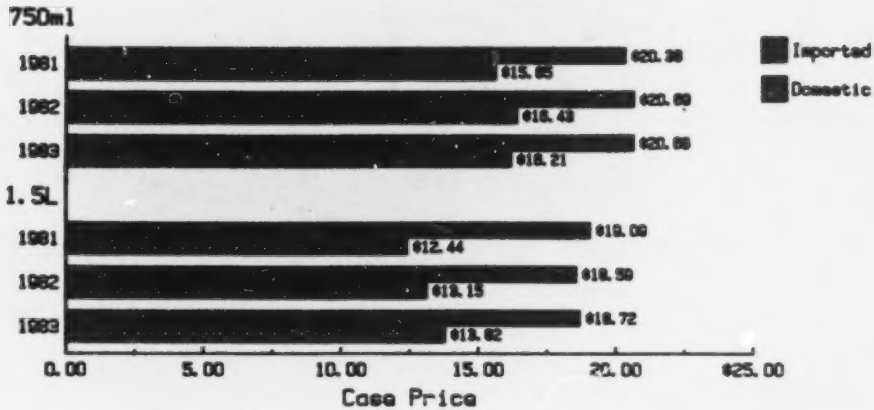
We find that the source of the greater relative price disadvantage for the imported 1.5L begins at the supplier level. While domestic suppliers gave an average of 18.4% discount for the 1.5L case (compared to 750ml cases), importers only discounted an average of 8.6%. As we have seen, the relatively larger price disadvantage for 1.5L imports carries through to the wholesale and retail levels.

Imported brand prices averaged 27.8% greater than their domestic counterparts in the 750ml size over the three years, and 43.1% greater than the domestic wines in the 1.5L containers during the same period. Since supplier prices were picked up in one market only, comparisons of such prices among the markets is not possible.

Supplier Wine Prices, 1981 - 1983

Year	750ml Size			1.5L Size		
	Domestic	Import	Difference	Domestic	Import	Difference
1981	\$15.65	\$20.38	30.2%	\$12.44	\$19.09	53.5%
1982	16.43	20.69	35.9	13.15	18.59	41.4
1983	16.21	20.68	27.6	13.82	18.72	35.5

Supplier Prices by Year 1981 - 1983



Source: Maryland ABC.

Revised Prices

As discussed earlier, our sample selection appeared to introduce a downward bias in the measured domestic prices and an upward bias in the import prices. This section summarizes the impact on average prices of taking three low-priced brands--Annie Green Springs, Boone's Farm and T.J. Swann--out of the domestic sample; and of taking Mouton Cadet and Tytell from the Imported sample. This exercise was performed for all three years with similar results in each year.

At the supplier level, the effect was to raise the average domestic prices for both the 750ml and 1.5L bottles by about \$1.00 a case and to reduce prices of both sizes of imports by about \$.30 a case. The net effects were to reduce the imports' price disadvantage by about 9 percentage points for the 750ml and about 11 percentage points for the 1.5L. Nevertheless, even after these adjustments, suppliers of domestic wines were selling 750ml cases an average of \$4.47 per case less than those of imports in 1983, and held a \$4.90 per case price advantage on the 1.5L size.

Similar results were found at the wholesale level. Average prices of domestic brands rose a few percentage points, and those of Imports fell. Imports still faced a substantial price disadvantage in all three years. Wholesalers were selling 750ml imported brands for an average of \$6.11 per case more than domestics, and 1.5L imported brands at \$9.22 more per case.

At the retail level, removal of the inexpensive brands from the domestic sample left average prices unchanged (as ads for these brands were not found in our survey period). Mouton Cadet and Tytell were only advertised in three of the markets during the period we tracked advertising. Since they have a relatively small market share, removal of these brands had little impact on measured import prices in those markets. Overall, removing these five brands from the sample reduced the domestic retail advantage for the 750ml from \$.63 per bottle to \$.59 per bottle, and that of the 1.5L from \$1.25 per bottle to \$1.22 per bottle.

In our judgment, the changes at no level of distribution are large enough to reduce our confidence in our original conclusion that domestic wines hold a price advantage over imported wines.

Analysis

The price differences we found between average prices of imported versus domestic wines are large--large enough to retain an advantage for domestic wines even if our procedures tended to overstate actual differences by a substantial amount. Furthermore, our findings for different years in different markets and at each distribution levels are mutually supporting. None is contradictory.

Available data determined the weighting procedure we adopted. Sales volumes by individual brand or wine line are not available at the city or even the state level. Consequently, we adopted a methodology of weighting all markets by the national

share of market held by each winery. This will result in an overstatement of prices in some markets and an understatement in others. The overall effect, however, should be neutral. A small upward bias in the average price disadvantage for imports has been introduced by our not weighting the state or metropolitan area markets by size in calculating the five-market averages. This occurs because Colorado, the smallest of the markets, also showed the highest relative prices for imports. As a result, the five-market average difference between import and domestic prices may be overstated by several percentage points. This amount, however, is not sufficient to offset the large price differentials we observed in the individual markets.

Actual retail prices would have been preferable to advertised prices, and price measurements might have been taken throughout the year rather than during October (and part of November at the retail level) as we have done. Average shelf prices will not mirror advertised prices, and prices in other months may be different from those in October and November. Yet we have a great deal of confidence in our conclusions. Not only are most percentage differences large in the five markets (meaning that corrections in the opposite direction of even larger values are required to reverse these conclusions), but they are generally consistent with observed price differences at the supplier and wholesaler levels, and among markets and container sizes.

The supplier price data have been taken from one market only, and will differ from those in the wholesale and retail markets used for those price calculations. While use of this data limits our ability to follow the pricing of products between the supplier and wholesaler levels, it does not prevent us from drawing conclusions regarding the general question of relative price levels between domestics and imports. As we observed earlier, if a bias is introduced in the price data, the use of Maryland for supplier prices probably reduces the observed domestic price advantage.

The findings are consistent. Florida has the highest excise taxes, and observed prices there are almost always highest. Colorado's high prices may be a result of its location combined with a smaller market size. At each level of distribution and in virtually every market, imports had a smaller price disadvantage on the 750ml size than on the 1.5L size. The "dollar differences" (one price less the other) between average imported and domestic prices grew at each level of distribution, reflecting the expected effects of value added by wholesalers and retailers. When we took out the inexpensive domestic and expensive imports, prices changed as expected (narrowing the difference), but the overall results were unchanged.

Finally, the observed price differences are so large that massive, systematic errors would have to permeate the entire data collection and calculation process before the study's general conclusion could be called into question. We think this unlikely.

Conclusion

The leading imported wines sell for higher average prices than do the leading domestics. The price disadvantage of imported wines is probably smaller for the 750ml size than for the 1.5L size, but the differences can be found in diverse markets in the U.S., at each level of distribution, and for more than one year. We conclude that domestic wine has a competitive pricing edge.

Steve L. Barsby
Steve L. Barsby & Associates, Inc.
Falls Church, Virginia

APPENDIX

Wine Brands Used in Price Comparisons

Domestic

Allied Wine Company

Colony
 Rhineskeller Moselle
 Chianti
 Colony Classics
 Chablis
 Burgundy
 Rose
 Rhine
 Colony Classic Varietals
 Chenin Blanc
 French Colombard
 Cabernet Sauvignon
 Zinfandel

Annie Green Springs

Petri
 Burgundy
 Vin Rose
 Chablis Blanc
 Pastoso
 Rhine

Almaden

Mountain Wines
 Red Burgundy
 Red Claret
 White Sauterne
 White Chablis
 Rhine
 Nectar Vin Rose
 Red Chianti
 Grenache Rose
 Almaden Light
 Chablis
 Rhine
 Rose
 Generic Wines
 Monterey Burgundy
 Monterey Chablis
 Gamay Rose
 Standard Varietals
 California Riesling
 French Colombard
 Grey Riesling
 Chenin Blanc
 Zinfandel

Canandaigua

Bisceglia
 Mountain Wines
 Burgundy
 Vin Rose
 Chablis
 Rhine
 Cabernet Sauvignon
 Chenin Blanc
 Richard's Wild Irish Rose

Gallo

Table Premium Wines
 Chablis Blanc
 Rhine
 Burgundy
 Hearty Burgundy
 Pink Chablis
 Red Rose
 Vin Rose
 Chianti

Varietals

French Colombard
 Rose
 Chenin Blanc
 Sauvignon Blanc
 Johan Riesling
 Gewurztraminer
 Boons Farm
 Apple
 Wild Mountain
 Strawberry Hill

Carlo Rossi

Chablis
 Rhine
 Burgundy
 Pink Chablis
 Vin Rose
 Light Chianti
 Palsano

Andre (Sparkling Wines)

White
 Pink
 Cold Duck
 Sparkling Burgundy

Wine Brands Used In Price Comparisons Domestic (cont.)

Gulld

Famiglia Cribari
Vinos
Vin Rosso
Vino Flamma
Vino Bianco
Mountain Generics
Chianti
Vin Rose
Mountain Chablis
Rhine
Burgundy
Mountain Burgundy
Mountain Chablis
Mountain Vin Rose
Premium Generics
Pink Chablis
Mellow Burgundy
Chablis Blanc
Light Chablis
Standard Varietals
Zinfandel

Inglennook

Inglennook Vintage
Cabernet Rose
Burgundy
Chablis
Rhine
Chardonnay
Inglennook Navelle Generic
Burgundy
Chablis
Rose
Rhine
Inglennook Navelle Varietals
French Colombard
Ruby Cabernet
Zinfandel
Riesling

T.J. Swann

N. LaMont

Burgundy
Chablis
Vin Rose
Chenin Blanc
French Colombard
Cabernet Sauvignon
Chardonnay

Monarch

Manischewitz
Cream Pink Concord
Cream Sangria
Cream White Concord
Cream Pink Catawba
White Niagara
Blackberry Hollandia
Cherry Dalmaja
Concordia
Red
White
Rose

Paul Masson

Table Wines
Chablis
Rhine
Burgundy
Vin Rose Sec
Rose
Proprietary
Rhine Castle
Emerald Dry
Varietals I
Pinot Blanc
Pinot Noir
Gamay Beaujolais
Cabernet Sauvignon
Pinot Chardonnay
Sauvignon Blanc
Varietals II
Riesling
French Colombard

Sebastiani

Premium Generics
Burgundy
Chablis
Vin Rose
Grenache Rose
Chianti
August Sebastiani
Country Wines
Light Country White
Chardonnay
Chenin Blanc
French Colombard
Cabernet Sauvignon
Pinot Noir
Zinfandel
Gamay Rose

**Wine Brands Used In Price Comparisons
Domestic Brands (cont.)**

Sebastiani (cont.)

- Mountain wines
- Burgundy
- Chablis
- Vin Rose
- Rhine

Taylor

- California Cellars
 - Generics
 - Rhine
 - Rose
 - Burgundy
 - Chablis
 - Varietals (group 1)
 - Cabernet Sauvignon
 - Chardonnay
 - Sauvignon Blanc
 - Johannisberg Riesling
 - Varietals (group 2)
 - French Colombard
 - Chenin Blanc
 - Riesling
 - Zinfandel
 - California Cellars Light
 - Light Rose
 - Light Rhine
 - Light Chablis
- Lake Country
 - Red
 - White
 - Gold
 - Pink
 - Soft Red
 - Soft White
 - Soft Pink
- Great Western
 - Dinner Wines (Generic)
 - Burgundy
 - Rose
 - Chablis
 - Varietal
 - Pink Catawba
 - White Niagara

Wine Group

- Mogen David
- Concord
- Blackberry
- Cherry
- Rose
- M.D. Red

**Wine Brands Used in Price Comparisons
Imports**

Blue Nun**Bolla**

Soave
Bardolino
Valpolicella
Rose
Trebiano

Canel

Bosco Canel

Cella

Lambrusco
Lambrusco Bianco
Rosato
Chianti Classico

Falonari

Red Verona
White Verona
Valpolicella
Bardolino
Soave
Rose
Verdicchio
Orvieto

Friexenet

Carta Nevada Brut
Cordon Negro Brut
Carta Nevada Semisec
Extra Dry (white label)

Giacobazzi

Lambrusco
Red
Bianco
Rosato

Lancers

Vin Rose
Bianco
Rubeo

Mateus

Rose
White

Mouton Cadet

Red
White
Rose

Partager

Rose
Rouge
Blanc

Riunite

White
Red
Rosato

Tytell

Graves
Medoc
St. Emilion
Red Burgundy
Beaujolais
Tavel Rose
Anjou Rose

Villa Banfi

Bell'Agio

Yago

Yago Sant'Gria
Red
White

Zonin

Lambrusco
Red
Rose
Trebiano White

Chairman GIBBONS. Thank you, Mr. Davis.

Mr. Frenzel.

Mr. FRENZEL. Thank you, Mr. Davis. That is interesting testimony. Can you review again who the National Association of Beverage Importers are?

Mr. DAVIS. Yes, sir, we have about 120 companies which import wine, spirits, and beer into the United States.

Mr. FRENZEL. Are you an association executive or do you represent one of the members as well?

Mr. DAVIS. I am president of the association and do not represent any single member.

Chairman GIBBONS. OK.

Mr. FRENZEL. On page 6 of your testimony, you talk about an ITC decision. Previous witnesses have indicated that because of that decision, that they were cut out of that decision on a technicality and to be sure as near as I can figure that their own injury was perhaps not determined. But your quotation indicates that the ITC did investigate and found that there was no injury.

Mr. DAVIS. Yes. That was with respect to the domestic wine injury as opposed to the grape growers.

Mr. FRENZEL. OK. And your testimony also indicates that there was serious overplanting?

Mr. DAVIS. Yes. That would appear from the production figures that we have. There is no question—

Mr. FRENZEL. There was an increase of about 50 percent in grape production in 1 year, wasn't there?

Mr. DAVIS. No. That was 1978 to 1982, 4 years. As previous testimony indicated, there is a serious surplus of wine in the United States as there is in Europe.

Mr. FRENZEL. Well, I appreciate your testimony, particularly with respect to opposition of elements within the industry itself. I, too, am concerned about the designated major trading countries which are undesignated and I am somewhat concerned about the mandatory investigations. As you know, this committee has jurisdiction over the budget of the ITC and over portions of the budget of the Commerce Department and a load of a 20-nation investigation would make it impossible to do the other work that we have in mind for them in this year unless a case were brought in the normal course and there was some allegation that it looked like it had some merit to it.

I thank you for your testimony here.

Chairman GIBBONS. Thank you, Mr. Davis. I appreciate your reminding me that wine is made of substances other than grapes.

Mr. DAVIS. Thank you.

Chairman GIBBONS. Thank you, sir.

Our next witness is Joseph Seagram, Seagram & Sons, and a number of the other different distillers in this country represented by Mr. James Lundquist, counsel, and Mr. Gunter von Conrad, counsel.

STATEMENT OF JAMES H. LUNDQUIST, GUNTER VON CONRAD, AND MATTHEW J. CLARK, COUNSEL, BARNES, RICHARDSON & COLBURN, ON BEHALF OF JOSEPH E. SEAGRAM & SONS, INC.; SCHIEFFELIN & CO.; BROWN-FORMAN CORP.; HEUBLEIN INC.; AND HIRAM WALKER & SONS, INC.

Chairman GIBBONS. Come right ahead. I didn't read a list of all your clients, but they are impressive. I have practiced law and wish I had all those, too.

Mr. FRENZEL. Do they pay you or just send you Christmas presents?

Mr. LUNDQUIST. We do this out of love for the service.

I am Jim Lundquist, a partner in the firm of Barnes, Richardson & Colburn. With me is Gunter von Conrad, our partner, and my colleague, Matthew Clark. I am a resident of Long Island.

Chairman GIBBONS. I didn't know they were growing grapes there now.

Mr. LUNDQUIST. That is getting to be quite a fad there. We hope soon to have wines to export to the Washington community.

Chairman GIBBONS. You should send us samples first.

Mr. LUNDQUIST. In any event, this group includes Joseph E. Seagram & Sons, Inc.; Schieffelin & Company; Brown-Forman Corp. of Louisville, KY; Heublein of Connecticut; and Hiram Walker & Sons, Inc., of Michigan. We have appeared separately although we have appeared with the group that preceded us because we represent such names as Inglenook, Paul Masson, Almeden, Taylor California, and other names that are well known.

Heublein is the second largest wine producer in the United States and Seagram is third and the biggest one, Gallo, didn't appear. I think we should think about that because we are concerned.

I have plied trade waters since the Dillon Round. This is the first piece of legislation I have seen that I could say would blow us back to base one. We would be back to the Havana charter because it is product-specific and on these arguments, I know it is late and we will ask you to file our brief as part of the record.

Chairman GIBBONS. It will be included in the record.

Mr. LUNDQUIST. It is one of the few pieces of revised legislation that has gotten worse in 6 months and I will tell you why. The reasons you have stated, Mr. Frenzel, are the reasons that this bill would forecast a second trade war that even a general trade agreement authority would be hard pressed to settle.

Isn't it strange that the Wine Institute could not accept any of the statistics we have? It won't accept the ITC statistics. It won't accept the Department of Commerce Bureau of Census statistics, so I suggest we take a look at their statistics. They are a matter of record. I will provide them for the record later and avert to them.

Chairman GIBBONS. Fine.

Mr. LUNDQUIST. The Californians, I will just talk about them. They have increased the production of wine grapes, table wine I should say, every year almost. There is a little bunch, but they increased from 385 in 1981 to 450 million gallons in 1982. Now, when someone increases their production so that it overtakes capacity and the world currency situation makes us on the east coast com-

pare bottles of wine and see the French and Italian product is less expensive to belly marketplace competition based on unsubsidized cost deferential, this is not a reason to pass bullet legislation that would take care of a single industry.

Out of the wine-type grapes produced in the United States by the California industry in 1982, 96.9 percent of those, or 97 percent, were used to make wine. Perhaps the idea of an overproduction here is the thing we should be looking at rather than imports.

One last figure. I quote from Impact, a recognized California-based newsletter, the 1983 edition. Mr. Chairman, I will provide this for the record, but here is the market trends that their industry shows and you can see that this is 1981 and in 1991, they estimate in this paragraph, which I will submit, an almost doubling of the market.

[The information follows:]

BARNES, RICHARDSON & COLBURN

ATTORNEYS & COUNSELLORS AT LAW

1819 H STREET, N.W.

WASHINGTON, D.C. 20006

TEL (202) 487-0300

CABLE "BARCHAL" D.C.

INTL-DOMESTIC TELEX 804139

TELECOPIER (202) 331-8748

E. THOMAS HONEY
JAMES H. LUNDQUIST
ANDREW P. VANCE
JAMES S. O'REILLY
RUFUS E. JARMAN, JR.
DAVID D. ELLIOTT
GUNTHER VON CONRAD
ROBERT E. BURKE
LEONARD LENHART
JOHN R. POLITIS *

EDWARD J. DOYLE
MATTHEW T. MCGRATH
MATTHEW J. CLARR

COUNSEL
MICHAEL STRANIELLO, JR. *

* NOT ADMITTED D.C.

NEW YORK
475 PARK AVENUE SOUTH
NEW YORK, N.Y. 10018
TEL (212) 728-0200
INTL-DOMESTIC TELEX 998883

CHICAGO
4000 PRUDENTIAL PLAZA
CHICAGO, ILLINOIS 60601
TEL (312) 588-8000
INTL-DOMESTIC TELEX 281084

LOS ANGELES
3438 WILSHIRE BLVD.
LOS ANGELES, CA 90010
TEL (213) 381-8771

July 27, 1984

John J. Salmon, Esquire
Chief Counsel
Committee on Ways & Means
U.S. House of Representatives
1102 Longworth House Office Building
Washington, D.C. 20515

Re: Trade Subcommittee Hearing on H.R. 3795
("Wine Equity Act"), and Substitute Version

Dear Mr. Salmon:

At the invitation of the Honorable Sam M. Gibbons, Chairman of the Subcommittee on Trade of the Committee on Ways & Means, we are forwarding the following documents for inclusion in the record of the hearing on H.R. 3795 and its substitute version held on Tuesday, July 24, 1984, in which we presented testimony on behalf of Joseph E. Seagram & Sons, Inc., Heublein Inc, Schieffelin & Co., Brown-Forman Corporation, and Hiram Walker & Sons, Inc.:

- Copies of two statistical graphs, referred to by witness James H. Lundquist, demonstrating the projected increases in domestic consumption of table wines; and
- A brief background and summary of points referred to by witness Gunter von Conrad regarding the actions of the California State Department of Food & Agriculture's proposed Wine and Wine Grape Improvement Program which became the subject of inquiries by the Honorable Bill Frenzel.

Respectfully submitted,

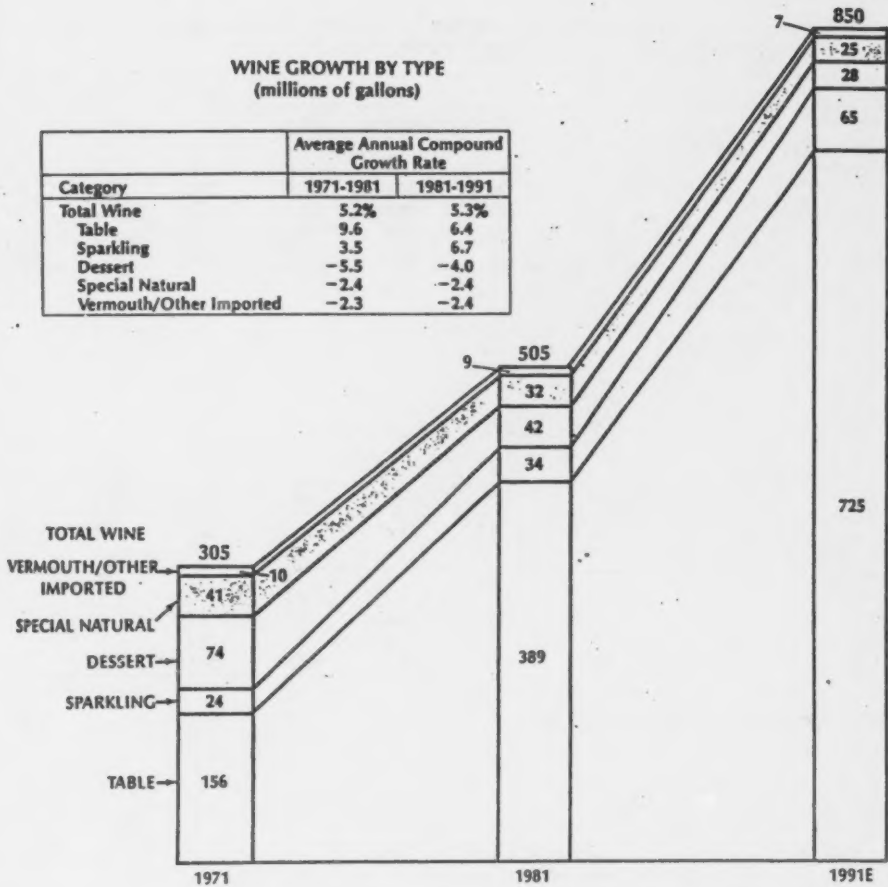
Barnes, Richardson & Colburn 20/12/84

BARNES, RICHARDSON & COLBURN

Enclosure

WINE GROWTH BY TYPE
(millions of gallons)

Category	Average Annual Compound Growth Rate	
	1971-1981	1981-1991
Total Wine	5.2%	5.3%
Table	9.6	6.4
Sparkling	3.5	6.7
Dessert	-5.5	-4.0
Special Natural	-2.4	-2.4
Vermouth/Other Imported	-2.3	-2.4



SOURCE: IMPACT-American Wine Market Review and Forecast, 1983 edi

WINE ENTERING DISTRIBUTION CHANNELS BY TYPE 1960-1991
(millions of gallons—rounded)

Type	1960	1970	1975	1980	1981	1982	1985	1991
Table	53	133	213	361.6	388.9	399.4	460	725
Dessert	87	74	67	44.9	41.6	39.9	35	28
Vermouth	7	10	10	8.7	8.0	7.7	7	6
Sparkling	4	22	20	30.1	34.0	37.5	47	63
Special Natural	12	28	57	32.4	31.5	28.6	25	25
Other Imported	*	1	1	0.5	0.6	0.7	1	1
Total ^a	164	267	368	478.2	504.7	513.7	575	830

*Less than 500,000 gallons.

^aBased on unrounded data.

SHARE OF MARKET TREND
WINE ENTERING DISTRIBUTION CHANNELS BY TYPE 1960-1991

Type	1960	1970	1975	1980	1981	1982	1985	1991
Table	32%	50%	58%	75.6%	77.1%	77.7%	80%	85%
Dessert	54	28	18	9.4	8.2	7.8	6	3
Vermouth	4	4	3	1.8	1.6	1.5	1	1
Sparkling	3	8	6	6.3	6.7	7.3	8	8
Special Natural	7	10	15	6.8	6.3	5.6	4	3
Other Imported	*	*	*	0.1	0.1	0.1	*	*
Total ^a	100%	100%	100%	100.0%	100.0%	100.0%	100%	100%

*Less than .05%.

^aAddition of columns may not agree because of rounding.

WINE GROWTH RATES BY TYPE 1960-1991

Type	Average Annual Compound Growth Rate					
	1960-1970	1970-1975	1975-1980	1970-1980	1980-1985	1985-1991
Table	9.6%	9.9%	11.2%	10.5%	4.9%	7.9%
Dessert	-1.5	-2.0	-7.7	-5.1	-4.9	-3.5
Vermouth	3.6	-	-2.6	-1.1	-4.2	-2.5
Sparkling	18.6	-1.9	8.5	3.2	9.3	5.6
Special Natural	8.8	15.3	-10.7	1.3	-5.0	-
Other Imported	11.1	0.2	-9.0	-4.7	9.9	3.8
Total	5.0%	6.6%	5.4%	6.0%	3.8%	6.7%

SOURCE: IMPACT-American Wine Market Review and Forecast, 1983 ed.

SUMMARY OF POINTS
PRESENTED TO THE
DEPARTMENT OF FOOD & AGRICULTURE
IN CONNECTION WITH THE PROPOSED
"CALIFORNIA WINE AND WINE GRAPE IMPROVEMENT PROGRAM"

Background

In April 1984, the California Department of Food and Agriculture ("Department") began circulating a proposed state marketing order covering wine and winegrapes produced and grown in California, developed and promulgated under the California Agricultural Marketing Act of 1937. The proposed plan calls for the establishment of a state marketing board which would be empowered to assess funds from growers and vintners in the state for the purpose of promoting the wines of California through a variety of programs, including educational activities and dealings with foreign governments to remove trade barriers affecting California wines. The Department convened a hearing on June 13, 1984, at which California vintners and grape growers expressed their views, for and against the proposal. Among the many well-known California vintners who expressed opposition to the proposal at the Department's hearing were Paul Masson, Ingelnook, Almaden, Taylor California Cellars, Beaulieu, Monterey and Sterling Vineyards. Despite statements on behalf of opponents that the proposal and the California statute violated both federal law and the Constitution, the Department, on July 10, 1984, approved the proposed program and submitted it for a vote of the vintners and grape growers of the state.

Summary of the Proposal

The proposed Wine and Winegrape Improvement Program, as approved by the Department, provides for the establishment of a state marketing board which would be empowered to exact involuntary assessments from winegrape growers and vintners of up to 1 percent of the gross dollar value of winegrapes marketed and processed in the State. The moneys collected by the board under the assessment are to be used for marketing research, development, and promotional activities.

The central theme of the proposed plan, as developed and stated by State officials, including the Lieutenant Governor, at the Department's June 13th hearing, is to deal with wine imports and foreign trade barriers. Among the many market development tools available to the board under the proposal to address these concerns is the authority to present facts to, and communicate with, foreign governments and their instrumentalities to achieve reductions in perceived trade barriers to California wines. To this end the plan proposes to permit the board to expend moneys to address trade related concerns and to pursue state sanctioned promotional and educational

programs which would exclude and discriminate against non-California wines. Paul Masson, Ingelnook, Taylor California Cellars, Almaden, Beaulieu, Monterey and Sterling Vineyards oppose these actions and this plan as unwise and as impermissible intrusions by the State of California into the realm of the trade relations of the United States.

Trade Relations are the Prerogative of the Federal Government

Both the proposed Program, as adopted, and the California statute under which it was promulgated constitute direct infringements on the federal powers of the United States and present substantial conflicts with existing federal law. By proposing to permit a state established marketing board to deal¹ with foreign governments to achieve a reduction in tariff and non-tariff barriers, both the proposed plan and its fostering statute infringe directly upon the exclusive authorities of the Federal Government which were vested by the Congress in the Office of the United States Trade Representative (USTR). The Office of the United States Trade Representative is the sole organ of the United States through which it pursues the interests of the several states in dealings with foreign governments. This path has been chosen by the Congress to insure that the United States speaks with a single voice in matters pertaining to its inter-actions with foreign governments so as to avoid conflicts between the states and to guarantee the uniformity of treatment for American goods sold in foreign markets. Moreover, the principle is universally recognized that the foreign relations of the United States are the sole and exclusive province of the Federal Government and may only be exercised by those organs which have been appropriately authorized and empowered by the Congress to act on behalf of the nation. Both the proposed California Marketing Plan and Marketing Act of 1937 directly contravene this fundamental purpose and thereby create a clear conflict with federal authorities which if left untended may result in the compromising of overall national objectives and in the communication of conflicting signals to our trading partners regarding our national trade policies.

The Proposed Plan Contradicts the Intentions and Authority of the Congress and of the House of Representatives

Not only do both the proposed Plan and the State Marketing Act directly contravene the preeminent position of the United States in its dealings with foreign governments, they also conflict with

¹/In its original incarnation the proposed plan included negotiation with "foreign governments" as one of the market development avenues available to the board. The term "negotiation" was revised prior to adoption of the plan; however, it is a part of the California statute. Consequently, the marketing board is still capable under the statute of "negotiating" with foreign nations and the deletion of the term from the program is purely cosmetic.

the intentions of the Congress as expressed in the many trade acts which established (Trade Expansion Act of 1962) and reconstituted (Trade Act of 1974, Trade Agreements Act of 1979) the Office of the United States Trade Representative, formerly the Office of the Special Representative for Trade Negotiations. The Office of the USTR was established by the Congress solely for the purpose of pursuing, through negotiation, the interests of the United States, and of its several states, as a whole. It was thereby vested with exclusive authority to present the positions of the United States to foreign governments, to enter upon trade agreements to further those interests, and to represent the United States in international trading forums. The actions of the State of California with regard to the establishment of a state board empowered with the authority, by the state, to deal with foreign governments contradicts these actions and the intentions expressed by the Congress when it established the Office of the United States Trade Representative and presents the danger that the State of California may elect to pursue courses of action and present positions which are opposed to or not in harmony with existing trade law and actions thereunder by the USTR.

In addition, the actions taken by the State of California and which will be taken by the proposed marketing board infringe directly upon the jurisdictional prerogatives of the Ways & Means Committee and its Subcommittee on Trade and of the House of Representatives as a whole. The Constitution of the United States provides that all revenue measures shall originate in the House of Representatives. This provision runs equally to matters affecting the import revenues of the United States as it does to those revenues derived from tax sources. Consequently, the proposed state action stands as a usurpation of this mandate, for it will have a direct and immediate impact upon the import revenue of the United States yet will not originate in the House. Moreover, the Trade Subcommittee has repeatedly exercised these powers of the House through its many Trade Agreement Extension Acts, the Reciprocal Trade Agreements Act, and the Tariff Acts. These enactments reflect the proper use of Constitutional mandates and should not be subjected to the inferior actions of the states or of any one of them.

Conclusion

These conflicts with the proper allocation of sovereign powers and with the expressed intentions of the Congress demonstrate the impropriety of the actions which have been taken by the State of California with regard to the development of a program directly affecting international wine trade.

Mr. LUNDQUIST. Now these trends should be shared by the Californians, Long Islanders, and others who produce wines, but certainly the attention of this busy Congress should not be devoted to the commingling of raisins, citrus, and any other fruit produced in a bill that allows sectoral retaliation. This bill is so buckshot, that the definition of wine, includes not only wine, but citrus products that start, or fruit products that start, at .05 alcohol content up to 14. No where else does the definition of wine do that.

The tariff schedules of the United States define fruit products as having an alcohol content of over .1 percent. You could, under this bill, have pineapple juice, citrus juice and a few others that had just the right amount of minor alcohol classified as wines. It is absurd. It is absurd to tamper with the Trade Agreements Act sector-by-sector negotiations and the Tariff Act in one 10-page bill. I think we have too much on the plate to handle in that respect and in the technical sense.

Now what happened to the well understood principle of exhausting one's legal and administrative remedies? I filed the first brief on wine gallon and proof gallon, Mr. Frenzel, in July 1960. We took it to the Supreme Court. We litigated it everywhere we could and filed ITC cases under then existing laws. We filed legislation that failed and we finally, after years of relentless effort, were able to correct something within the procedures.

Now, as the wine—

Mr. FRENZEL. Actually, we had to buy it. We didn't correct it.

Mr. LUNDQUIST. OK.

Mr. FRENZEL. We inflicted the cost on the consumer.

Mr. LUNDQUIST. The domestic industry was losing a fortune on domestic bourbons and whiskeys because trends were going to other things. Without that savings, you would have difficulty promoting other products. Whoever paid for it, it was under a reciprocal arrangement and within the process.

The Wine Institute has not filed a section 201 case. What about an American Manufacturers' Protest in a Court of International Trade claiming unfair subsidies challenging the valuation of imported wines? What about an unfair competition case?

As I read section 337, it is not limited to patents. If so many naughty things are going on in other countries, why haven't they exhausted their remedies? The answer is they have a political juggernaut.

It has been my experience that one exhausted remedies before one asked for the extraordinary result of specific legislation. So, therefore, I think it should be opposed on the fact that after they have had their remedies then they complain. I take my chances at the ITC every year. You win some and you lose some. The Commission tries to do an exhaustive preliminary investigation which they did on wine. The trouble with their case was raisins. They tried to talk the Commission into using longstanding criteria that we have all known about and draw in another product and they didn't get away with it so now they complain about it, the statistics and the Census statistics and they all show that the market is here, it has temporarily declined and that if we are given time and full negotiating authority, we can take care of these things.

My colleague, Gunter von Conrad has spent considerable time in California recently because there are some shenanigans there that you should know about.

Mr. VON CONRAD. Mr. Chairman, Congressman Frenzel, this addresses itself to section 7 of the substitute version which would establish a \$2 million to \$10 million export promotion plan, a Federal one. About 5 weeks ago, I had occasion to attend a hearing at the California Department of Food and Agriculture which is in the process of establishing a so-called California wine and wine grape market improvement plan. This plan would require grape growers and vintners in California to pay involuntary assessments which would then be used for a program to deal with foreign trade barriers and a number of other marketing aspects.

Now we went out there to testify at that hearing and to tell the California Department of Agriculture that their program was illegal and unconstitutional and violated a number of trade agreements and executive orders and Presidential proclamations and Federal law and Federal definitions and I think it is important for the committee here to know what is going on and what we said because what would happen there is that the State of California would undertake to establish criteria for the conduct of our international trade and that they would establish themselves trade barriers.

As a result of our testimony, the California Department of Agriculture took their program and they deleted one word in it. That is the word "negotiate" with foreign governments. As for the rest, all the other things that they would do with foreign governments and anybody else in this country would still stay on target. Most importantly, it is interesting to look at the California law under which this happens, which says specifically—in section 58604.5 of the California Marketing Act of 1937 defines advertising and sales promotion, which all this would go into, advertising and sales promotion means in addition to its ordinarily accepted meaning trade promotion and activities for the prevention, modification or removal of trade barriers which restrict the free flow of any commodity to market and may include presentation of facts to and negotiations with State, Federal and foreign governmental agencies on matters which affect the marketing and so on and so forth of a commodity.

I think it is important to know this because it seems to me that the California—that the Wine Institute is going to California to ask California something that has been a privilege of this committee and under legislation of this committee or the President of the United States and which under the Constitution is a matter that is reserved to the Congress and to the President; the very same people who are coming here to say all right, fine, and we want to get rid of trade barriers.

I think that when we take a look at their actions before you and before the food and agriculture department of the State of California, we can see that it is a purely restrictive measure that they are taking.

I would like to go back to a comment that Mr. Silverman made today—I am sorry—to the prepared statement of the Wine Institute handed in by Mr. Silverman this morning and I would like to

quote a sentence from page 5 of that. It says here "If a country refuses and the negotiations are unsuccessful, the President is directed to use his discretionary authority under section 301 and other existing GATT-compatible U.S. laws to compensate the wine industry."

Mr. Chairman, Mr. Lundquist will be talking more about section 301, but I think that is pulling the wool over our eyes. When you take a look at the substitute bill which we think is worse than the original, you would see there is nothing discretionary about it. They have cut out the President's discretionary authority contained in section 301(a) and go straight from the findings that they would have the Congress make to a section 301(b) mandatory exercise.

If you look at the law, nothing can be plainer so I don't think we should sit here and have to listen to this nonsense that this is discretionary authority, that they would have the committee believe. Mr. Lundquist has a couple more points.

Mr. LUNDQUIST. In closing, I would simply like to say that consistent with prior testimony we have made for any industry here, we oppose nurturing action under section 301. We consider it an unguided missile. I think some of the discussion of cases today indicates that it is a weak crutch substitute for full negotiating authority so we would like to, on behalf of these companies, support the concept of getting down to work and understanding that a general trade agreement authority is not just free trade. It is both sides and this kind of legislation could proliferate if we don't get broad support from both complaints and sponsors of the legislation and those that oppose it for what I know you tried to do, general authority.

This concludes our statement and we would be happy to answer any questions that you may have.

[The prepared statement follows:]

STATEMENT ON BEHALF OF JOSEPH E. SEAGRAM & SONS, INC., SCHIEFFELIN & CO., BROWN-FORMAN CORP., HEUBLEIN INC., AND HIRAM WALKER & SONS, INC., PRESENTED BY JAMES H. LUNQUIST, GUNTER VON CONRAD, AND MATTHEW J. CLARK, COUNSEL

This statement is submitted on behalf of Joseph E. Seagram & Sons, Inc., Schieffelin & Co., Brown-Forman Corporation, Heublein Inc., and Hiram Walker & Sons, Inc. who together account for a substantial portion of domestic sales and a major share of wine imports into the United States. These companies strongly oppose H.R. 3795, the so-called "Wine Equity Act", including the substitute version which is currently under consideration by the Subcommittee.

SUMMARY OF POSITION

The proposed Wine Equity Act (WEA) violates binding commitments of the United States existing under a series of trade agreements and under the General Agreement on Tariffs and Trade (GATT); it would not benefit the United States industry. There is no economic justification for the bill, because international competitive effects are largely controlled by exchange rates and the strong dollar. The proposed bill would mandate Presidential retaliation and virtually assure international trade disputes or trade wars.

THE WINE EQUITY ACT, H.R. 3795, IS A RETALIATORY BILL

The proposed Wine Equity Act is a product-specific retaliatory measure. As such, it would be both bad law and bad policy, because it would turn the Most-Favored-Nation principle under which the United States has engaged in many trade agree-

ments, into a Most-Restrictive-Practices principle. Not only would this tend to violate 50 years of International Executive Agreements, the GATT, and United States treaty obligations, it must, if enacted, lead, inevitably, to atrophy in international trade.

The Wine Equity Act brings retaliation to a specific commodity. This approach causes loss of cross-sectoral negotiating flexibility—even in the alcoholic beverage sector all trade arrangements would freeze, and it would undercut necessary negotiations in the wine industry and beneficial participation in international arrangements, such as the enological, labeling, and other agreements recently established or under way.

THE WEA WOULD NOT BENEFIT THE UNITED STATES INDUSTRY

The United States wine industry is relatively young and at the inception of its international participation. Also, the U.S. wine market is fairly new, with per capita consumption only 1/10th of that in other major wine-producing countries (U.S. averages 2.1 gallons per capita; Italy and France approximately 20 or more gallons per capita). An artificial cut-off of international wine trade will act directly against the development of wine interests, since, with artificial barriers and artificially-induced excessive wine prices, individuals will have more incentive to stay with or switch to other beverages.

THERE IS NO ECONOMIC JUSTIFICATION FOR PROTECTIONIST MEASURES

The United States wine industry is a growing industry and American companies are among the strongest in the world. United States grape acreage and wine production have been increasing steadily over many years and the trend continues to be up. More importantly, the U.S. industry is upgrading its product and thereby producing wines at higher prices with a solid profit base. Also, the U.S. grape growing industry is operating at or near capacity and according to reports, is adding more capacity in many states. Wine makers similarly enjoy high operational capacity utilization. When comparing the increase in consumption to the growth in wine acreage and wine production, it is evident that, aside from some inventory questions and aside from the effects of international currency exchange rates, the supply to meet the growing per capita demand, if not met fully by the U.S. industry, had to come from offshore suppliers. In short, the increase in wine imports at the same time as production in the United States increased demonstrates that foreign products were pulled into the market, reacting to demand, rather than being pushed in. If the Wine Equity Act is enacted, it would deal with a symptom of American market growth by cutting off free circulation of international trade.

THE WINE EQUITY ACT WOULD VIOLATE THE BINDING COMMITMENTS OF THE UNITED STATES

During recently concluded trade negotiations, requirements for international trade in wine were improved by removal of tariff and non-tariff barriers, and certain bindings are now in effect, removal of which would violate the General Agreement on Tariffs and Trade. Most recently, the United States and the European Community concluded decade-long negotiations on Enological Practices and made progress toward liberalization of wine trade which eventually will benefit the U.S. industry as it becomes more export oriented (current U.S. industry exports only 2 percent of its increasingly high-quality wines, a market which has room for expansion). These agreements, designed to open up world markets for the U.S. industry, would be violated and the door to exports would be slammed shut by trade war anarchy stemming from this legislation.

THE WEA IS A RECESSION-BRED, NEGATIVISTIC MEASURE

The proponents of the WEA claim as "inequitable" the growth of international participation in the American market, although they could not, themselves, meet the increased demand. The economic arguments offered by proponents are a recitation of the woes of a slow domestic economy and a recession that temporarily dampened the otherwise expansionary trend in U.S. wine sales. Stripped of recession-caused and cyclical factors, it is clear that the long-term trend of United States production will continue its upward movement. Therefore, there is no economic basis nor logic in insisting on restrictive measures geared to a recession that has already been overcome.

**THE REAL "VILLAIN" TEMPORARILY ENHANCING IMPORTS AND INHIBITING THE
EXPANSION OF UNITED STATES WINE SALES ABROAD IS THE STRONG DOLLAR**

With currency exchange rate shifts of 40 percent and more over the past few years, the value of the dollar has become the largest factor affecting international sales of U.S. wines. Conversely, the exchange rate has benefited the price competitiveness of imports. This shows that stabilization of international trade in this commodity is directly related to a stabilization of relative currency values.

THE WEA WILL DESTROY THE QUALITY/IMAGE OF AMERICAN WINE

Growing sophistication in American wine-making methods over the past decade has enhanced the recognition that American wines are among the finest produced anywhere in the world. Certain California and other wines have mounted superbly successful international promotions. The Wine Equity Act, on its face, is an admission that those members of the California Wine Institute supporting the bill do not believe in their own product or that California wines can succeed in world markets on their merits. Furthermore, the Wine Equity Act, aimed as it is at the most restrictive common denominator, is a major disservice to quality development. It cannot be in the interest of American wine makers to treat all wine and international trade as a commodity in which price and restriction wars are fought, because to refuse a distinction between the numerous qualities and kinds of wines made in the United States and abroad must hurt not only foreign suppliers (whether of Appellation or ordinary wine) but also will tend to "equalize" distinctions, and preferences among American products. In short, the growing sophistication which is beneficial to all participants in international trade will suffer greatly at the hands of the WEA.

THE WEA WOULD REVERSE UNITED STATES TRADE POLICY OF FIVE DECADES

The WEA is contrary to every tenet of trade policy enunciated by the United States since 1934. Coming at a time of increasing commodity restrictions, unwarranted and protectionist measures with respect to a product which neither needs nor warrants import restraints (but which, by contrast, should have export promotion), places a grave-marker on the liberal trade policy of bipartisan American Administrations since the rejection of Smoot-Hawley.

Moreover, the WEA threatens to revive the specter of inflation by restricting the competitive advantages of an open market in favor of one closed to all but domestically produced wines. As a result, the domestic industry will be insulated from price competition and consequently will be in a position to raise prices with impunity to artificially high levels. In practice, this may enable the domestic industry to price its product at levels just below the margin at which consumers would otherwise suspend purchases and maintain those levels secure in the knowledge that external market equalizing factors have been eradicated.

THE WEA IS CONTRARY TO AMERICAN INTERESTS

Many U.S. products from blue jeans to computers enjoy international favor because of the basic perception of a majority in most foreign countries that the U.S. is an admirable, positive-action and value-oriented country. American wine has begun to add to this image and to the perception of quality appreciated by not only fickle governments or their coalitions but by individual consumers abroad. It is, therefore, not only of consequence to American wine makers but also to the reputation of the U.S. that laws such as the WEA which must tarnish the American image, should be defeated.

**THE MAINTENANCE OF CURRENT WINE TRADE POLICY WILL BENEFIT UNITED STATES WINE
PRODUCERS**

The recent enological agreements reached by the U.S. and the E.C. contained a net benefit for American producers in that wine-making processes would be allowed in the case of American wines which otherwise would have precluded the sale of U.S. wines under stricter E.C. rules. The advantage thus gained in opening markets for the U.S. industry and the initiative to succeed in the export field would be lost. There can be little doubt that, if restrictionist legislation is enacted, wine consumption in the United States would shrink if foreign participation is restrained and if there is no continued incentive to excellence in the market.

IMPORTED WINES HAVE NOT HURT BUT HELPED THE DOMESTIC INDUSTRY

The expansion of the United States industry over the past decade parallels the growth of imports. Not only have imports not hurt the U.S. industry (because the U.S. industry continues to enjoy steady growth), but imports have provided the American consumer with a means for developing increasing sophistication and interest in wine. The presumption that American production—assuming there existed sufficient capacity—would by itself be sufficient to stimulate the market is demonstrable folly, because an absence or artificial restriction of imports would serve only to raise prices which, in turn, would quickly decrease sale in the market. While the “insular” concept might serve for a brief time to enrich those already controlling the largest share of U.S. production, it would eventually lead to squeezing out secondary-level producers in the United States. Protectionism—of which the WEA is an example in its rankest form—has never long benefited those in an industry holding small market portions. Moreover, the WEA would cause restrictive walls to appear everywhere in the world. In the end, the U.S. industry, and the consumers in all countries, will suffer.

THE WEA IS CONTRARY TO THE INTERESTS OF WINE-PRODUCING STATES

The attrition of U.S. wine production which will follow from internationally restrictive measures would also have effects within the United States. It is of great interest to note that in recent years many states have become producers of wine, some in substantial quantity. Thus, many states of the United States now have some wine production, for instance New York, Illinois, Florida, and others; and some areas enjoy growing production, including Virginia, Mississippi, Ohio, Oregon, Pennsylvania, and Washington, in addition to California. In an internationally-restrictive market, it is by no means a certainty that California will retain its preeminence within the United States. As modern wine-making techniques are being developed in other states, these states can be counted on to favor the promotion of their own wines. International competition, if restricted, would cease to have a “regulating effect” on the openness of interstate commerce in wine and, built on the model of the WEA, it can be anticipated that the growth in wine production, nationally, would fall to states where wine is a growth industry. It can be anticipated, further, that competition would develop among the various states, far more detrimental to the American wine industry than shared national and international markets.

THE SUBSTITUTE WEA

Turning to the draft substitute now before the Subcommittee, we judge this measure—which, by omitting the concept of “reciprocity”, would ostensibly remove the beggar-thy-neighbor language of H.R. 3795—to be as bad as or worse than the original.

This substitute would *mandate* the President to retaliate under section 301 of the Trade Act of 1974, as amended by the Trade Agreements Act of 1979, this in turn abrogates U.S. treaty obligations by bringing the retaliatory features of Section 125 of the Trade Act of 1974 to bear and virtually assures a trade war by the inclusion of Section 854 of the Trade Agreements Act of 1979 which automatically locks all alcoholic beverages into international disputes.

THE PROPOSED MARKETING FUND IS UNWARRANTED

The substitute in its Section 7 would also establish a fund of between \$2 million and \$10 million for export promotion and marketing. This is an attempt to create a sinecure at the expense of the national taxpayers and consumers for those in the wine industry who want to hide behind trade barriers. The industry can and should organize its business privately; we now plan to do so.

THE USITC AND THE COURTS WOULD BE UNDERMINED IMPROPERLY

Section 8 of the substitute proposes to expand the term “industry” in antidumping, countervailing duty, and other trade laws to include both processed and unprocessed agricultural products, so that producers of both raw and processed agricultural commodities would be included for purposes of determining material injury or threat to a U.S. industry. In the case of wine, the USITC has just found “no injury” or threat in antidumping and countervailing duty cases, and these determinations are now pending in the Court of International Trade. We do not believe it would be appropriate for Congress at this stage to invade the functions of the Executive and Judicial branches of the Government.

CONCLUSION

In summary, Joseph E. Seagram & Sons, Inc., Schieffelin & Co., Brown-Forman Corporation, Heublein Inc., and Hiram Walker & Sons, Inc., urge the Subcommittee not to report this measure favorably to the Committee on Ways & Means, and we urge that this bill, which would contradict every Executive Agreement, treaty and trade law of the United States of the last 50 years, be rejected.

Exhibit A

PER CAPITA CONSUMPTION OF WINE, BY COUNTRIES

[Gallons]

Country	1981 ¹	1980	1975	1970	1965
France.....	23.78	24.04	27.39	28.83	31.07
Portugal.....	20.34	18.49	23.71	20.26	28.77
Argentina.....	19.73	20.15	22.11	24.25	22.67
Italy.....	19.55	21.13	28.40	29.32	28.80
Spain.....	15.85	15.85	19.55	16.25	16.64
Switzerland.....	12.74	12.44	11.44	10.30	10.12
Chile.....	12.68	13.29	11.48	11.60	14.95
Greece.....	11.87	11.87	10.04	10.57	10.36
Luxembourg.....	11.10	12.73	10.90	10.00	10.00
Austria.....	9.38	9.38	9.40	9.99	7.87
Hungary.....	9.25	9.25	9.77	9.96	8.67
Romania.....	7.63	7.63	8.72	6.10	7.71
Yugoslavia.....	7.45	7.45	7.56	7.11	6.21
Uruguay.....	6.60	6.60	6.63	6.87	8.00
West Germany.....	6.53	6.74	6.13	4.28	3.88
Bulgaria.....	5.81	5.81	5.28	4.91	5.47
Australia.....	4.62	4.60	2.96	2.25	1.27
Belgium.....	3.97	3.79	4.49	3.17	2.27
Denmark.....	3.86	3.38	3.03	1.56	1.08
U.S.S.R.....	3.80	3.80	3.53	3.01	2.60
Holland.....	3.38	3.14	2.43	1.36	.89
Czechoslovakia.....	3.17	3.17	2.91	2.80	1.35
Poland.....	2.59	2.59	1.95	1.48	1.27
Sweden.....	2.59	2.54	2.20	1.69	1.14
S. Africa.....	2.54	2.40	2.77	2.96	1.85
Cyprus.....	2.27	2.59	1.64	2.17	3.17
Canada.....	2.21	2.21	1.76	.58	.73
United States.....	2.11	2.21	1.71	1.31	.98
United Kingdom.....	1.77	1.97	1.24	.76	.58
Finland.....	1.26	1.26	1.35	1.08	.70

¹ Per capita consumption data are not available for a few countries which are believed to have between 1 and 3 gallons consumption per person.

Sources: Economic Research Department, Wine Institute; International Wine Office, Paris; Bureau of Alcohol, Tobacco and Firearms, and Bureau of the Census.

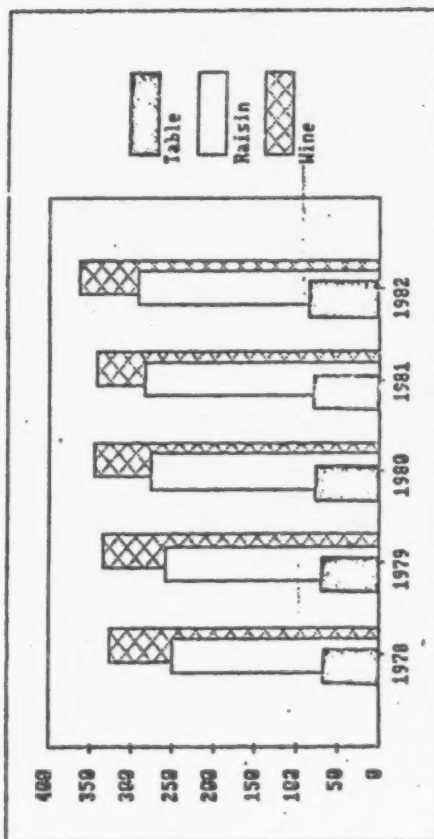
Wines & Vines: 40th Annual Statistical Survey, at 58.

EXHIBIT " B "

Figure 1

California Grape Acreage
(Bearing and Nonbearing)
1978 - 1982

(Thousand Acres)



Sources: Prepared by Economic Research Department, Wine Institute,
from reports of California Crop and Livestock Reporting
Service.

SOURCE: 1982 Wine Industry Statistical Report, California Wine
Institute, at 13.

CALIFORNIA GRAPES: PRODUCTION, BEARING ACREAGE AND YIELD PER ACRE BY VARIETAL CLASSES, CROP YEARS 1973-82

Year	Production, 1,000 tons				Bearing acreage				Yield per acre, tons			
	Wine		Raisin		Wine		Raisin		Wine		Raisin	
	Table	Total	Table	Total	Table	Total	Table	Total	Table	Total	Table	Total
1973	1,040	3,891	475	2,376	149,360	66,610	239,260	455,230	6.96	7.13	9.93	8.55
1974	1,238	3,794	586	1,970	180,950	66,750	241,350	489,050	6.84	8.73	8.16	7.76
1975	1,313	3,948	434	2,201	225,160	63,130	237,900	526,190	5.83	6.88	9.25	7.50
1976	1,323	3,978	405	2,250	292,646	64,709	243,120	600,475	4.52	6.26	9.25	6.62
1977	1,563	3,986	488	1,935	317,918	63,487	241,059	622,464	4.92	7.69	8.03	6.40
1978	1,706	4,017	393	1,918	313,654	62,497	240,446	616,597	5.44	6.29	7.98	6.51
1979	1,821	4,558	417	2,320	292,503	61,839	239,523	593,865	6.23	6.74	9.69	7.68
1980	2,004	5,124	428	2,692	290,686	62,506	243,438	596,630	6.89	6.85	11.06	8.59
1981	1,794	3,993	420	1,779	278,935	63,481	249,665	592,081	6.43	6.62	7.13	6.74
1982 ¹	2,382	5,958	620	2,956	291,413	67,783	260,780	619,976	8.17	9.15	11.34	9.61

¹ Preliminary.

² In 1982, 760,000 tons were unutilized.

Source: Economic Research Department, Wine Institute; California Crop and Livestock Reporting Service, Crop Reporting Board and U.S. Department of Agriculture. Wines & Vines: 40th Annual Statistical Survey, at 49.

Exhibit C

Table wine production in California

[1,000 gallons]

1972	262,958
1973	360,992
1974	322,194
1975	329,401
1976	330,399
1977	368,107
1978	373,639
1979	383,231
1980	439,036
1981	385,000
1982	¹ 450,421

¹ Bank of America, California Wine Report, December 1983, at 8.

Source: Wines & Vines, 40th Annual Statistical Survey, at 47.

Exhibit D

TABLE 1.—UTILIZED GRAPE PRODUCTION, COMMERCIAL CRUSH OF FRESH GRAPES AND GROWER RETURNS FOR GRAPES IN CALIFORNIA, BY VARIETAL TYPES 1978 THROUGH 1982

	Utilized production			Grapes crushed			Percent crushed
	1,000 tons	Percent of all grapes	Dollars per ton ¹	1,000 tons	Percent of all grapes	Dollars per ton ¹	
Wine type:							
1978.....	1,706	45.3	210	1,641.0	64.5	209	96.2
1979.....	1,821	40.0	214	1,733.0	66.2	215	95.2
1980.....	2,004	39.1	210	1,922.0	66.4	210	95.9
1981.....	1,794	44.9	266	1,725.0	71.4	268	96.2
1982 ^a	2,152	40.2	218	2,086.0	66.9	220	96.9
Table type:							
1978.....	393	10.4	342	200.0	7.9	140	50.9
1979.....	417	9.1	310	184.1	7.0	155	44.1
1980.....	428	8.4	410	196.0	6.8	144	45.8
1981.....	420	10.5	440	182.0	7.5	195	43.3
1982 ^a	582	10.9	347	256.3	8.2	149	44.0
Raisin type:							
1978.....	1,670	44.3	221	702.0	27.6	153	42.0
1979.....	2,320	50.9	238	700.0	26.7	151	30.2
1980.....	2,692	52.5	237	778.0	26.9	144	28.9
1981.....	1,779	44.6	306	509.0	21.1	199	28.6
1982 ^a	2,624	49.0	214	774.0	24.8	127	29.5
All grapes:							
1978.....	^a 3,769	100.0	228	2,543.0	100.0	188	67.5
1979.....	4,558	100.0	236	2,617.1	100.0	194	57.4
1980.....	5,124	100.0	241	2,896.0	100.0	188	56.5
1981.....	3,993	100.0	302	2,416.0	100.0	248	60.5
1982 ^a	^a 5,358	100.0	230	3,116.3	100.0	191	58.2

¹ Bulk fruit at grower's first delivery point.^a Preliminary.^b Total production was 4,017,000 tons. 248,000 tons of raisin variety grapes were lost in-field.^c Total production was 6,138,000 tons. Production losses were: wine varieties, 250,000 tons; table varieties, 20,000 tons; and raisin varieties, 510,000 tons.

Sources: Prepared by Economic Research Department, Wine Institute, from reports of California Crop and Livestock Reporting Service and Crop Reporting Board, U.S. Department of Agriculture.

1982 Wine Industry Statistical Report, California Wine Institute, at 11.

Exhibit E

The short 1983 grape crop will result in improved prices for grapes and wine. Stiff import competition and the acreage potential to produce surplus wine in California, however, will keep some downward pressure on prices. Grapevines will continue to

be planted, nonetheless. Premium varieties, especially whites, which currently command high prices, will expand in acreage. In addition, the spread between prices for highly sought-after varieties over less marketable grapes will widen, encouraging farmers to graft vines over to the highly sought varieties.

Bank of America: California Wine Report, at 1.

The productive potential of California's vineyards came into focus by the crops produced in 1978, 1980, and 1982. The first broke the 4-million ton barrier, the second exceeded 5 million, and the third almost reached 6 million tons. The substantial increase in bearing vines since the early 1970s, from 439,900 acres in 1972 to 619,976 acres in 1982, is the main reason. However, the continuing long-term rising trend in yields per acre also was significant. The prospect is for both trends to continue, and almost certainly to assure a crop of over 6 million tons before the end of the eighties, probably by a considerable margin.

There was 118,568 non-bearing acres in California in 1982, which when added to existing bearing vines projects to a bearing acreage of at least 700,000 acres by 1985. Such an acreage would require a yield of only 8.57 tons per acre (one ton less than 1982's record 9.6 tons) to produce a six-million-ton grape crop.

Wines & Vines: 40th Annual Statistical Survey, at 48.

Exhibit F

CURRENCY EXCHANGE RATES

(All figures are lira per dollar)

By year ¹	Year end	Year's average
1978.....	829.8	848.7
1979.....	809.0	830.9
1980.....	930.5	856.4
1981.....	1,200.0	1,136.8
1982.....	1,370.0	1,352.5
1983.....	1,655.0	1,516.8

¹ Source: U.S. Department of Treasury, Office of Foreign Exchange Operations.

Monthly average: ²

	Lira
December 1982.....	1,397.7
January 1983.....	1,374.1
February.....	1,398.0
March.....	1,426.3
April.....	1,452.4
May.....	1,469.3
June.....	1,510.7
July.....	1,513.8
August.....	1,587.8
September.....	1,601.4
October.....	1,582.8
November.....	1,625.8
1984 estimates quarter ending:	
March 31.....	1,568.5
June 30.....	1,597.5
September 30.....	1,608.0
December 31.....	1,589.2

² Source: Citicorp Information Services.

The major factor, external to the wine industry, that strongly affects trade levels is the strength of the dollar relative to foreign currencies. In 1979, when the dollar was weak, exports grew almost 120 percent, while imports declined 2 percent. In 1982, when the dollar was strong, imports grew 6 percent while exports dropped 11 percent. The dollar has remained at record levels in 1983 relative the French franc and Italian lira keeping imports price low.

Source: Bank of America, Cal. Wine Report, at 12.

Chairman GIBBONS. I want to be fair. We are going to have some kind of a markup on the bill. I don't know where the votes are on the committee, so anything you have to add, be sure to get it in in a hurry. I want everybody to be forewarned about that.

You brought out some very good points here today. Obviously the bill does need a close examination and I hope in the markup we will give it a close examination. I don't know that I have any other questions to ask you at this time.

Mr. Frenzel.

Mr. FRENZEL. It looks to me as though the bill calls for a mandatory entitlement of \$2 million in section 7 to be given to representative trade associations. And I assume that is permanent loss, \$2 million to \$10 million every year, which Congress will never again look at and is not subject to the appropriation process. I suspect that there is some kind of a budget act point of order lying against that provision, but tell me, could that money be used to pay the expenses of legal counsel and consultant fees to petition the Congress for passage of the bill that this committee is now pending?

Mr. LUNDQUIST. As written, it would be our judgment, yes.

Mr. FRENZEL. So that the taxpayers of the United States would be obliged to help those who want this bill to pass to get passed?

Mr. LUNDQUIST. Mr. Frenzel, it is the same old thing. If I get extra money, I can use other budget money for other things. I wouldn't say it is money to lobby this committee and the Congress, but if it is extra money, you can save other funds for that.

Mr. FRENZEL. There is nothing here to prevent it from being used for that purpose, is there?

Mr. LUNDQUIST. No.

Mr. FRENZEL. I find that medium offensive.

Mr. CLAWSON. That is not true.

Mr. FRENZEL. When we are done with this group, shall we recall Mr. Clawson and get some rebuttal here?

Chairman GIBBONS. Sure.

Mr. FRENZEL. If we can find out that that is not true—getting back to the other business, when we use the total wine industry figures, then the grape growers want to talk about table wines and yet the key to the thing is somewhat mysterious to me, other than somebody wants to lock up their market. If you get down to it and that seems to be the net, net, net, was there any reason, in your opinion, for the ITC to confer any status on raisin producing?

Mr. LUNDQUIST. No; and these rules were known to all of us lawyers practicing regularly in the trade field. There are certain sectors of agriculture where the raw material, that is to say the agricultural commodity, is so closely allied to the manufactured product where they fall in together.

Mr. FRENZEL. Like orange juice?

Mr. LUNDQUIST. That would be one example. You might not have the same thing with pineapple because there is so much production of pineapple as such so each industry has to be taken in its own realm. In this case, you were trying to eliminate from the equation the terrible losses taken on table grapes and on raisins by including them in the total, but deducting them when you talk about import impact, so the case which was probably more investigated

by the staff simply looked at the facts and found out that the industry was the wine industry.

The wine industry was overproducing, international currency structures were working against them and that you could not show under the statute, not under politics, but you couldn't show under the statute injury or threat thereof, and so they threw the case out.

Mr. FRENZEL. But there was nothing to prevent Mr. Silverman's group from making a case and having status?

Mr. LUNDQUIST. He was not there.

Mr. FRENZEL. Had his group of vintners come in—

Mr. LUNDQUIST. I am not sure there was unanimity in that group.

Mr. FRENZEL. That is the key.

Mr. LUNDQUIST. We are the second largest producers and we like free trade because we have seen what protectionism can do to a multinational industry and wine per se is multinational.

Mr. FRENZEL. You represent some of the same people represented by the previous witness. Do you in general endorse the statement of the previous witness?

Mr. LUNDQUIST. I do.

Mr. FRENZEL. Particularly with respect to the constitutionality of this?

Mr. LUNDQUIST. I haven't had a chance to study that. We did not compare our statements in advance. I would have to study that and would be glad to provide you with our judgment on that.

Mr. FRENZEL. I would like to have it. I would like to know if there is a constitutional attack on this and I think there are other parliamentary questions.

Mr. LUNDQUIST. Well, we prepared our statement and were unaware of what anyone else was going to say, but we will talk and provide you our answer.

[See p. 161 for statement.]

Mr. FRENZEL. Thank you, Mr. Chairman. When you are through, I hope we will give Mr. Clawson a chance to respond.

Chairman GIBBONS. Come up to the table.

Mr. CLAWSON. Let me apologize to Mr. Lundquist. I normally do not do that kind of thing except that I think Congressman Frenzel knows when it comes to spending taxpayers' money, I did not want him to go away with any kind of impression that this money would be used to hire consultants or lawyers to lobby Congress.

The program is under Public Law 480, an export promotion program administered by the Department of Agriculture and they have strict regulations about what the money can be used for. It isn't an entitlement program. The industry has to prepare a plan. It is a matching fund program and it cannot be used for the kinds of things that were being discussed here.

I am not saying that Mr. Lundquist was saying that. To the contrary, he said he wasn't sure and I wanted to make sure, Mr. Frenzel, that you didn't feel that this money would in any way be used domestically because that is not the intention of the program. The \$2 million would not automatically be given to the industry. They have to justify a program that would represent their matching of those funds.

I apologize for blurting out that way.

Mr. FRENZEL. I was reading from a summary proposal—a summary of the proposal which is a little more terse than one would need.

This comes out of the CCC appropriation?

Mr. CLAWSON. Yes, that is right. It is referred to frequently as the Helms money that was proposed over a 3-year period for export promotion, the Budget Reconciliation Act.

Mr. FRENZEL. Tell us what you would expect to do with this money?

Mr. CLAWSON. It is similar to the kind of programs being run by—

Mr. FRENZEL. Looking for a balance of credit?

Mr. CLAWSON. It has nothing to do with credits. This is purely point of sale and other promotional kinds of activities in the foreign markets under the Foreign Agricultural Service with the agricultural trade officers. It is a matching program for wine tasting, point of sale, ad materials, those kinds of things in selected markets through an annual marketing plan that is prepared by the industry submitted and approved in advance by the agricultural officials.

Mr. FRENZEL. And that is different from the current California check off?

Mr. CLAWSON. There is no current California check off.

Mr. FRENZEL. It is to be voted?

Mr. CLAWSON. That is right. They are different animals.

Mr. FRENZEL. Can you tell me about the California law, what they use the checkoff for?

Mr. CLAWSON. I am not familiar with that. I have not been involved in that aspect of the wine industry's efforts.

Mr. SILVERMAN. Nor have I, Mr. Chairman.

Mr. FRENZEL. I think it would be good to have something about how that money can be used.

Chairman GIBBONS. We have the gentleman back from the Grape Growers Association, perhaps he could answer that question.

Mr. WEIDERT. Thank you, Mr. Chairman.

I would only say very briefly, Mr. Frenzel, that the California order is a joint arrangement. Our organization, first of all, is not directly involved with it. The California Association of Wine Grape Growers and the Wine Institute are both involved in it.

It is a coming together, an historic occasion, where the wineries have come together with the growers and determined that they should arrive at some kind of a mechanism to fund generic promotion, generic research, other kinds of programs that would be of benefit to the domestic grape industry, particularly California in this case, and I would have to suggest to you gentlemen that these same foreigners and importers and distillers appeared there in opposition to that marketing order.

And it just happened I brought along a few things with me that they said out there. The fact is that the representative from one of these firms indicated they don't want to pay more for domestic grapes.

Another one indicated that—the vice president of one of these organizations—that if they contribute to a program that improves do-

mestic sales of wine, it would be against their own best interests inferred here, but not stated in the record as importers.

I think perhaps—and I might say also that the arguments that were made here about the problems with the California order have been made before the courts in California.

On four occasions, in an effort to stop the vote from going forward, the courts denied these interests that opportunity. They have indicated, however—I am not a lawyer, so I may get shot down on technicalities—that if the growers and/or the vintners vote in favor of the order, the court will rehear the issue at that time, at least that is my lay understanding.

I think perhaps—and I speak only as a representative of growers and not the wineries and only as an observer and not a participant of the wine segment of the industry—appears to me that we have arrived at a point in the country where there is an evolution occurring in the winemaking industry.

We are seeing the foreigners, importers, distillers in opposition to those things upon which the rest of the wine industry has unanimously agreed.

We have nearly 600 wineries in California and three major wineries, all of them absentee to that State at least, some represented here, oppose what is being asked by the rest of the industry.

True, they are large, however, the largest winery which hasn't been mentioned here is supporting the California effort, and so I think—

Mr. LUNDQUIST. Which one is that?

Mr. WEIDERT. Gallo.

Mr. LUNDQUIST. Where is Gallo?

Mr. WEIDERT. I don't speak for them.

Mr. LUNDQUIST. You are speaking for the other wine producers in California.

Mr. SILVERMAN. May I say one thing—

Chairman GIBBONS. I like a good bloodbath. Go ahead. This has been a pretty dull hearing up to now.

Mr. SILVERMAN. Within the Wine Institute, and the institute does include Gallo as well as 487 others, we have a board of directors and an executive committee. Everything is aired. We like to think it is aired democratically.

The predominant majority of all of the wineries of California support every position that the Wine Institute has taken with regard to my appearance here today and with regard to what Mr. Weidert alluded to.

It reminds me a little bit of the Congress. How many bills pass here 435 to nothing, or 335 to 100? We have a tremendously representative democratic situation.

Chairman GIBBONS. Some of the worst ones pass that way.

Mr. SILVERMAN. I know that. It is one of the things that has been alluded to today, we obviously like to proceed in a democratic way. We think, or we hope our distilleries will continue to support the wine industry.

Obviously, there are problems. Their attempt to shift part of the excise tax on distilled spirits and send it to wine we don't consider to be in our best interest, but we do operate as a democratic group.

My appearance is geared toward the export side on behalf of the Wine Institute. Gallo is a prominent member of the Wine Institute and participates like any small winery does. I have tried to state fairly the Wine Institute position, and I feel I have.

Chairman GIBBONS. We will ask Gallo where they stand if there is a question in our mind. I didn't grow up in the citrus industry, but I do know that there has historically been a divergence of opinion on what the price of oranges ought to be.

The grower always thinks they ought to be real high, and the processor always thinks they ought to be real low, and getting them together is almost as bad as getting a summit conference on missiles or something.

They get together when both of them are threatened, but not any other time, because their interests are just divergent. If you are going to have a glut of oranges and can't sell them, the producer always hopes that everybody else's oranges, other than his, will get frozen.

Mr. LUNDQUIST. I don't mind sharing our testimony. I doubt very much that it would change either side, but I do think the statistical trend that I cited to you, when the industry itself projects that they are going to go from 505 million gallons to 850 million gallons, I suggest that this is a statement against not their interest, but against their overall composite testimony.

I didn't make this up, and although, in order to save time, we didn't read our statement—

Chairman GIBBONS. As I understand the gravamen of their complaint is this: That the U.S. markets are relatively open, the foreign markets are relatively closed, and what they would like to do is try to force the foreign markets open.

Now, that is perhaps an oversimplification of it. They are suggesting we do it by sector, and people of good faith have said, you can't do it by sector. And they are using the threat of closing our markets as the bargaining chip in all of this, as I see it.

Am I overstating the case or stating it correctly? That is about what it is. They say they have been neglected in past negotiations. I don't know whether they have been neglected in past negotiations, but it would seem to me if Japan doesn't have a wine industry, that \$4 is a little high.

I guess they were protecting the saki industry or maybe they just didn't want the Japanese to—

Mr. LUNDQUIST. No; they are beginning to produce wine in Japan that is quite good.

Chairman GIBBONS. I hope they sort out some of those orange groves and produce a lot of wine.

Mr. LUNDQUIST. This is a problem already confronted by one of the clients I represent so I don't speak for others, I speak firsthand.

When Paul Masson decided to sell wine in Europe, it spent money, it didn't come to Congress and it is still spending money. The way to sell wine is to promote wine and the California producers, particularly Gallo Brothers have written a book on what promotion can do to sell wine and what they are asking for is a surrogate to substitute for that costly promotion.

We are selling wine in Europe. Paul Masson is selling in Europe and when we have a good crop, a good bottle of wine, it sells, but

we have had to spend money to promote. So without a surrogate they are going to have to put up their money.

I suggest to Mr. Silverman that after they have promoted in Europe for a decade as we have, then come back.

Chairman GIBBONS. Is Paul Masson an independent—

Mr. LUNDQUIST. It is owned by Joseph Seagram.

Chairman GIBBONS. All right. I understand the promotion business. Frankly, nobody would drink orange juice if we didn't promote it like we do, a few health fad people would, but it is the way you sell oranges. We promote the heck out of it.

Mr. LUNDQUIST. I would think if they checked with Florida Citrus Mutual, they would find out a dandy way to promote California wines.

Chairman GIBBONS. Mr. Frenzel?

Mr. FRENZEL. I wanted to ask about that referendum or whatever it is. Who participates and what kind of a vote does it take to pass it?

Chairman GIBBONS. You are operating under the Agricultural Act of 1930—something or other.

Mr. SILVERMAN. Are you talking about the marketing order in California?

Chairman GIBBONS. The marketing order for California grapes?

Mr. SILVERMAN. California wine and grapes. I haven't been a participant in that.

Chairman GIBBONS. It is an old act of Congress.

Mr. VON CONRAD. Mr. Chairman, the action being taken by the California Department of Food and Agriculture—

Chairman GIBBONS. It goes even further than that?

Mr. VON CONRAD. I don't think it is a referendum in the sense of the word that you have referendums under Federal marketing orders. It is a little bit of a different animal out there. It has now gone, it is a proposal that was, I suppose, supported by the Wine Institute and others and some of the growers, and it has been endorsed by the State Department of Food and Agriculture, and which is now out to a number of growers and vintners to be voted on so we don't know the results of that yet.

It won't come in until some time—

Mr. FRENZEL. Theoretically if half of them vote for it, all of them will be obliged—

Mr. VON CONRAD. When you look at it carefully, they just reasonably amended the way in which the vote was going to be taken and it is interesting to note they cut out a lot of the guys who are in the small end. We have testimony here that talks about the small vintner and on the other hand they are being cut out from the vote.

Mr. FRENZEL. Why? Because they are too small to be considered?

Mr. VON CONRAD. They say we won't assess them because they only crush 100 tons or whatever the criterion.

Mr. FRENZEL. But at least if they are not given the franchise they are also not—they don't have to pay for it?

Mr. VON CONRAD. That is true enough. I would like to make one comment because it came up earlier about there having been court hearings. Sure, colleagues of ours have gone and taken the matter into court and a preliminary injunction, temporary restraining

order kind of requests, but those were not related really to what I should call the merits of these votes to be taken on the plans.

One of the problems is we can't identify the plans. It is about seven to \$12 million in net program. We don't know exactly what it is going to be used for. But what they were taken in on were procedural questions like notice requirements, did everybody get a proper notice.

There are still vintners that don't have notice. So there are problems with this, but it will all be resolved eventually.

We have said in our opinion it violates Federal law, intrudes directly on this committee's jurisdiction and it takes away the powers the President has under the Constitution given him by acts of Congress which are being exercised and that will be an issue coming down the road if this is passed.

Mr. LUNDQUIST. You should know that this is not an isolation. We are presently litigating the California beef tax. California is getting—

Chairman GIBBONS. Yes, I know.

Mr. LUNDQUIST. We are now in the court of appeals with that on the commerce clause question. This will go to the same thing. In fairness to these gentlemen, it is a new approach that has been nurtured by many industries, agri-business industries, and the commerce clauses question on the charge for promoting beef generically will go up on the commerce clause as interfering with international and interstate commerce.

Chairman GIBBONS. I want to encourage you all to do that. I am going to make a speech to the National Governors Association on this subject about the necessity for preserving the American common market and not go off—we have got them doing all kinds of unusual things.

Mr. FRENZEL. Is it your unitary tax speech?

Chairman GIBBONS. No, I will give them that, too, but I want to encourage the governors to look at the whole U.S. common market rather than trying to develop the way that some of them appear to be going.

So if you have got anything you want me to say that is constructive to those governors, I will be happy to plagiarize it from you.

Mr. LUNDQUIST. I am sure you will be able to handle your own case.

Mr. WEIDERT. May I observe on the California order specific to the question? It is, as I understand it, under a California act that this is occurring.

Chairman GIBBONS. Not under the old—

Mr. WEIDERT. No. We would be happy to provide a report on that if there is sufficient interest.

Chairman GIBBONS. I would like to see that.

Mr. WEIDERT. The way the thing is set up as a layman, the way I read it, is it is a joint order but the vintners can decide they don't want it but if the growers decide they want it, then it can be a growers' order and vice versa. It is hoped it will be a joint order and they went into it as a joint proposal.

In fact, when the vote is counted, as I understand it, 50 percent of the growers voting, representing 65 percent of the production,

must favor it in order for it to pass or vice versa, 65 percent of the growers representing 50 percent of the production.

So it will take a healthy vote to put it into place and it will certainly signal approval on the part of growers if that occurs. On the part of wineries, I think the vote is a little different.

Mr. FRENZEL. Vinyards are people or——

Mr. WEIDERT. People and tonnage of production, as I understand it. Tonnage of production on the grower's side. I don't know how the vintners are set up. So it takes a healthy vote to get the thing in place.

Mr. LUNDQUIST. Mr. Chairman, that concludes our joint testimony.

Chairman GIBBONS. I thought you all did real well. You weren't as nasty as I thought you would be.

Mr. LUNDQUIST. I would like to submit this brief with some of the points I referred to for the record.

Chairman GIBBONS. Happy to put it in. Thank you all.

[The post-hearing brief follows:]

POST-HEARING BRIEF
OF
JOSEPH E. SEAGRAM & SONS, INC.
HEUBLEIN WINES, AND
NATIONAL DISTILLERS PRODUCTS CO.

Introduction

This brief is submitted by counsel on behalf of Joseph E. Seagram & Sons, Inc., Heublein Wines, and the National Distillers Products Co., to supplement testimony delivered at the hearing convened on June 13, 1984, and to respond to questions which were posed by members of the panel.

Joseph E. Seagram & Sons, Inc., Heublein Wines, and National Distillers Products Co. are, individually and collectively, engaged in the production of table wine in the United States for both domestic consumption and export, and are importers of table wines produced outside the United States. Each is also engaged in the production of distilled alcoholic beverages, as well as in the importation and exportation of those products.

Statement of Issue

The California Department of Food and Agriculture, pursuant to the Marketing Act of 1937, has promulgated a "Proposed California Wine and Winegrape Improvement Program" to facilitate the development of California's wine industry. Under the terms of the Proposal,¹ a marketing board consisting of growers, vintners, or both, will be established to promote the consumption of California wines and winegrape products, through a wide range of promotional activities including, among others, the elimination of international trade barriers through negotiation with foreign nations, the conducting of exclusive testings, and the development of state sanctioned educational programs promoting solely the wines of California. By the terms of the Proposal, all processors and growers will be subject to a mandatory (involuntary) assessment, the purpose of which is to raise capital to fund the activities of the board in furtherance of its objectives. The Board established by the Proposal will act as a state agency representing, in theory, the interests of the California wine industry.

The issue presented by this Proposal is whether the State of California, in its governmental capacity, can levy an involuntary assessment to pursue actions which affect, directly or indirectly, international trade in wine through programs which may unnecessarily discriminate against the wines of foreign nations within the California market.

¹/This brief deals solely with the Proposal prepared by the Department of Food and Agriculture.

Summary of Position

As was developed at the hearing convened on June 13, 1984, to consider the Department's proposed winegrape improvement program, the contemplated marketing order is fatally flawed in several respects regarding its scope, potential application, and phraseology.

In particular, both the proposed program and the statute under which it has been promulgated improperly infringe upon exclusively reserved domains of federal authority and are thereby unsupportable under principles of Constitutional law and are preempted by federal law and policy which is controlling in the field of international commercial relations, especially as they relate to trade and tariff negotiations with foreign governments and their agencies.

In addition, neither the proposed plan nor the Marketing Act under which it has been promulgated is sheltered by the protective reach of the Twenty-First Amendment's conferral of plenary regulatory authority upon the states with regard to matters affecting alcoholic beverages, for neither of these represents an exercise of Twenty-First Amendment authority. Moreover, even if the California Marketing Act of 1937 is viewed as an enactment adopted by the legislature to effectuate the purposes of the Twenty-First Amendment, its application will affect only a minor portion of the federal prerogative contained in the Commerce Clause and will be without affect in regard to all other Constitutional bases of federal power.

Finally, certain provisions of the proposed program which define the terms employed in the Plan are at odds with federal regulatory definitions.

As a consequence of the irreconcilable conflicts presented by both the proposed action and its underlying statutory base, the contemplated improvement plan should be withdrawn.

I) Foreign Relations Are the Sole and
Exclusive Province of the Federal Government

As conceived in the Federal Constitution, the regulation and conduct of relations between the United States and foreign nations is divided between two complementary spheres of power bestowed, respectively, upon the Congress and the Executive. In particular, the Constitution in Section 8 of Article 1 gives to the United States Congress the power to regulate commerce with foreign nations, while Article 2, Section 2 simultaneously authorizes the President to enter into treaties with foreign governments, by and with the advice and consent of the Senate. These assignments of powers with regard to matters of association with foreign states establish the vehicle for the efficient administration of those sovereign rights which became an incidence of the United States immediately upon the dissolution of its relationship, as a colony, with Great Britain. United States v. Curtiss-Wright Export Company, et al., 299 U.S. 304, 318 (1936).

The question presented by the language of "negotiation" which is contained in Article III, Section A(2)(b) of the proposed Winegrape Improvement Plan, and Section 2 of the California Marketing Act of 1937, Fd. & Ag. C. A. §§58604 and 58604.5, is whether or not

the sovereign rights of the United States, taken as a whole and as allocated for exercise by the Constitution, permit an individual state to conduct negotiations with a foreign government to achieve reductions in tariff and non-tariff barriers affecting products produced throughout the United States.

While the Supreme Court has not addressed this question squarely, it has, on several occasions, reviewed state action in light of the foreign relations mandate of the Federal Government and, in both dicta and holding, has concluded that the foreign relations of the United States, especially insofar as they relate to matters of negotiation and agreement, are solely the domain of the Federal Government.

Writing in 1857 then Attorney General Caleb Cushing, responding to a Presidential inquiry concerning the Constitutional authority of the Federal Government to enter into treaty stipulations with foreign governments, stated:

The power, which the Constitution bestows on the President, with advice and consent of the Senate, to make treaties, is not only general in terms and without any express limitation, but it is accompanied with absolute prohibition of exercise of treaty power by the states. That is, in the matter of foreign negotiation, the states have conferred the whole of their power, in other words, all the treated-powers of sovereignty, on the United States. Thus, in the present case, if the power of negotiation be not in the United States, then it exists nowhere, and one great field of international relation, of negotiation, and of ordinary public and private interests, is closed up, as well against the United States as each and everyone of the states. That is not a supposition to be accepted, unless it be forced upon us by considerations of overpowering cogency. May, it involves political impossibility. For, if one of the proper functions of sovereignty be thus utterly lost to us, then the people of the United States are but incompletely sovereign, -not sovereign-, nor in co-

equality of right with other admitted sovereignties of Europe and America. (Emphasis added)

8 Op. Att'y Gen. 411, 415. Cushing's advice to the President with regard to the supremacy of the Federal Government in matters relating to international affairs arose in the context of an agreement between the United States and Czarist Russia by which both countries agreed to permit bequests and devises of both real and personal property to pass freely between decedents and heirs residing between the two nations. However, a difficulty arose insofar as a number of states refused to permit land to pass other than by their own laws of succession. The question posed to Cushing was whether or not the United States was constitutionally empowered to enter upon the instant treaty with Russia even though such a treaty abrogated existing state laws.

Cushing's conclusion, as reflected above, was that the Federal Government possesses a Constitutional mandate to conclude agreements such as that existing between ourselves and the then nation of Russia. In the development of his argument Cushing chose as an illustration the situation of the State of New York which, immediately after the formation of the union, was viewed as a sovereign power possessing all the rights which international law accords to independent states. According to Cushing, New York exercised its sovereign powers through an intermediary agency, the Revolutionary Congress, in the conclusion of treaties with both France and the Netherlands. Against this he postulates that New York purposefully surrendered its sovereign power when it consented to the Federal Constitution. Cushing reasons from this that the power which New

York possessed and exercised as a sovereign state must necessarily have passed to the Federal Government when New York surrendered its sovereign privileges and elected instead to operate within the confines of the Federal Government, otherwise its sovereign rights would have been lost altogether.

Cushing's interpretation of the Constitution later found support in United States v. Arjona, wherein the Supreme Court considered the Constitutionality of a statute which made it a criminal offense to possess the counterfeit notes, securities, or bills, of a foreign nation, or to possess the plates from which such tender could be produced. Upholding the right of the Congress to enforce the "law of nations" the court, in dicta, stated:

Congress has the power to make all laws which shall be necessary and proper to carry into execution the powers vested by the Constitution in the Government of the United States, and the Government of the United States has been vested exclusively with the power of representing the nation in all its intercourse with foreign countries. It alone can "regulate commerce with foreign nations", make treaties and appoint ambassadors and other public administrators and councils. A state is expressly prohibited from entering into any "treaty, alliance, or confederation." Thus, all official intercourse between a state and foreign nations is prevented, and exclusive authority for that purpose given to the United States. (Emphasis added)

120 U.S. 479, 483 (1887).

Somewhat more recently, the Court has made several similar statements respecting the unassailable right of the Federal Government to conduct all facets of relations between the United States and foreign nations. In Board of Trustees of University of Illinois v. United States, the Court considered an action arising under the Tariff Act of 1922 with respect to certain scientific

apparatus which had been imported by the University of Illinois for use in one of its educational laboratories. Under protest, Customs duties were exacted on the apparatus at the rates prescribed by the Act despite the University's claim that as an instrumentality of the State in the discharge of governmental functions it was entitled to import the articles in question duty free. Affirming the lower decisions of the Customs Court and Court of Customs and Patent Appeals upholding the Government's duty assessment, the Court stated that "the words of the Constitution 'comprehend every species of commercial intercourse between the United States and foreign nations. No sort of trade can be carried on between this country and any other to which this power does not extend.'" (Citing Gibbons v. Ogden, 9 Wheat. 1, 289 U.S. 48 (emphasis added)).

Later in its opinion, the Court added that:

[I]n international relations and with respect to foreign intercourse and trade the people of the United States act through a single government with unified adequate national power. There is thus no violation of the principle which petitioner invokes, for there is no encroachment on the power of the state as none exists with respect to the subject over which the federal power has been exerted.

Id. at 59.

In Board of Trustees, therefore, the Court recognized two significant principles which directly relate to the proposed Wine and Winegrape Improvement Plan. First, it noted that the power of the Congress to regulate commerce with foreign nations encompasses every conceivable form of commercial intercourse between the United States and other nations and, second, that in matters of international

relations and trade that the United States must speak with a single voice.

United States v. Curtiss-Wright Export Corporation, et al., supra, is a landmark decision with regard to the rights and enumerated powers of the U.S. in the field of international law and the relationship of those rights to the residual authorities of the several states. In Curtiss-Wright the Court considered the Constitutionality of a joint resolution of the Congress, and Presidential Proclamation following from that joint resolution, which declared it unlawful for any American citizen to sell arms or munitions to either Bolivia or Paraguay, who were at the time involved in armed conflict in Chaco. Appellee Curtiss-Wright Export Corporation and others were indicted under a charge of conspiracy to sell arms of war in violation of both the resolution and proclamation. Reversing the Southern District of New York's judgment sustaining appellee's demurrer to the indictment, the Court at length discussed the origins and attributes of both federal and state power and stated that "the President alone has the power to speak or listen as a representative of the nation. He makes treaties with the advice and consent of the Senate; but he alone negotiates. Into the field of negotiation the Senate cannot intrude; and Congress itself is powerless to invade it." Id. at 319. The Court also quoted then Representative Marshall (later Chief Justice Marshall) who stated, during debate on the floor of the House of Representatives, that "the President is the sole organ of the nation in its external relations, and its sole representative with foreign nations." Id.

Further commenting on the powers of the Federal Government in the realm of foreign affairs the Court also quoted from a report of the Senate Committee on Foreign Relations dated February 15, 1816, stating:

The President is the Constitutional representative of the United States with regard to foreign nations. He manages our concerns with foreign nations and must necessarily be most competent to determine when, how, and upon what subjects negotiation may be urged with the greatest prospect of success. ... The nature of transactions with foreign nations, moreover, requires caution and unity of design and their success frequently depends on secrecy and dispatch. (Emphasis added)

Id.

Recognizing that the situation presented to it in Curtiss-Wright concerned not only authorities vested in the President by virtue of specific legislative action, but also with the delicate yet plenary and exclusive power of the President at the sole organ of the Federal Government in the field of international relations, a power which it noted does not require as a basis for its exercise an act of Congress but rather emanates from and is subordinated to the Constitution, the Court concluded that:

It is quite apparent that if, in the maintenance of our international relations, embarrassment - perhaps serious embarrassment - is to be avoided and success for our aims achieved, Congressional legislation which is to be made effective through negotiation and inquiry within the international field must often accord to the President a degree of discretion and freedom from statutory restriction which would not be admissible for domestic affairs alone involved.

Id. at 221.

The Supreme Court's dicta in Curtiss-Wright cited above was repeated a year later when the Court, in U.S. v. Belmont, 301 U.S. 324 (1937), stated:

[g]overnmental power over internal affairs is distributed between the national government and the several states. Governmental power over external affairs is not distributed, but is vested exclusively in the national government. And in respect of what was done here, the Executive had authority to speak as the sole organ of that government.

Id. at 330.

Belmont concerned a series of acts by which the Soviet government nationalized and appropriated the property and assets of its corporations wherever situated. In 1933 the Soviet government, as a result of diplomatic correspondence and to resolve certain claims and counter-claims between it and the United States, released to the U.S. all assets which it held by virtue of nationalization that were situated in the U.S., in return for which the United States Government agreed not to enforce its claims against any Soviet nationals. Following the assignment petitioner, the United States, demanded delivery of the nationalized assets but was refused. That refusal was subsequently sustained by both the Southern District and Second Circuit, sitting in New York, on the premise that the Soviet nationalization decree, if enforced, would constitute an act of confiscation which was contrary to the controlling public policies of the State of New York.

On appeal, the Court reasoned that in transactions involving international intercourse that the rights and role of the Federal Government are supreme and stated that:

complete power over international affairs is in the national government and is not and cannot be subject to any curtailment or interference on the part of the several states. ... In respect of all international negotiations and compacts, and in respect to our foreign relations generally, state lines disappear.

Id. at 331 (emphasis added). Concluding that in matters of international relations the State of New York "does not exist" the Court held the lower courts in error and reversed. Id. at 333.

The issue of state infringement on the federal foreign relations prerogative was again considered by the Court in United States v. Pink, a second appeal involving nationalized assets, an insurance company, over which the United States attempted to assert control by virtue of a Soviet assignment. Again commenting on the preeminent role of the Federal Government in the sphere of foreign affairs and the conduct of international relations, and citing with favor the opinion in Curtiss-Wright, the Court stated:

We repeat that there are limitations on the sovereignty of the states. No state can rewrite our foreign policy to conform to its own domestic policies. Power over external affairs is not shared by the states; it is vested in the national government exclusively. It need not be so exercised as to conform to state laws or state policies whether they be expressed in Constitutions, statutes, or judicial decrees.

315 U.S. 203, 233 (1942). Reversing and remanding to the New York Court of Appeals, the Court concluded its opinion with a citation to Belmont, supra, stating that "in respect of international negotiation and compacts, and in respect of our foreign relations generally, state lines disappear. As to such purposes, the State of New York does not exist." Id. at 567.

The issue of federal supremacy in the field of foreign affairs has arisen on several occasions in the context of criminal prosecutions. In United States v. Elliott the U.S. District Court for the Southern District of New York considered an indictment issued against two American citizens for conspiring to destroy a railroad bridge in the Republic of Zambia and thereby cut-off a significant portion of the world's copper supply to their advantage. Defendant's were charged under a statute providing a three-year imprisonment for conspiracies to injure or destroy specific property situated in foreign countries with whom the United States was at peace.

Defendant's contended that the statute was void for vagueness in that the term "at peace" was not susceptible of easy application by the average citizen, given the on-again and off-again associations of the U.S. with nations such as China and North Korea. The Court, rejecting defendant's contentions and citing with approval U.S. v. Arjona, *supra*, stated:

It is established beyond cavil that the Constitution vests exclusive control of the nation's foreign policy and all intercourse with foreign states in the Federal Government. ... The foreign government's power over foreign affairs "... comprises not only authority to regulate relations with foreign countries, but also (power) to prohibit any disturbance or interference with external affairs. (Emphasis added.)

Id., 266 F. Supp. 318, 322 (1967).

A second criminal prosecution which raised the issue of federal supremacy in the sphere of international relations was U.S. v. Hooker, a decision by the U.S. Court of Appeals for the 9th Circuit which considered the question of whether or not the government's failure to seek defendant's extradition from Peru constituted an

unconstitutional post-indictment delay. The Court, holding that the Government is under no compulsion to exercise its sovereign rights stated that:

[a]nd the states of the United States have no power to conduct the international relations of the United States. They are prohibited from entering into "any treaty, alliance, or confederation" by Article 1, Section 10, Paragraph 1 of the Constitution. The power to deal with foreign nations rests in the President, acting, in making treaties, by and with the consent of the Senate. The President conducts our foreign relations through the State Department, ambassadors and counsellors, and others whom he appoints.

607 F.2d 286, 289 (1979), cert. denied, 100 S. Ct. 1083.

An instructive early decision addressing this issue from a state perspective was handed down by the Supreme Court of Oregon in Sloan v. Baker, 10 P. 2d 362 (1932). In Sloan, the Oregon Court considered the propriety of an ordinance which held that the Mayor of Portland would cease to be paid after an absence from the city exceeding a period of 30 days. Baker, then Mayor of Portland, on behalf of the City travelled to Europe and about the United States to disseminate information regarding the City and to develop friendly contacts with other cities, both here and abroad. As a result of these activities, Baker was absent from Portland for well over 30 days and plaintiff thereupon sued to enjoin the City from continuing to pay the Mayor's salary. Baker responded by claiming that he was not truly absent from his position insofar as he was acting in his official capacity and that therefore the ordinance was inapplicable and his pay should continue.

The Supreme Court of Oregon, dismissing Baker's defense, noted the prohibition of the Constitution against any state entering

into a treaty, alliance, or confederation with another state or with a foreign power and stated that "in view of this inhibition, it cannot be said that there is implied authority on the part of a municipality of a state to assume ambassadorial relations either with municipalities of other states or with foreign governments." Id. at 364.

Regarding the application of the narrow principle of federal supremacy in the field of international negotiation to the states generally, and, in particular, to the facts of the matter at hand, there is one decision which is especially instructive. In Clark v. Allen, 331 U.S. 503 (1947), the Supreme Court considered the question of whether a California statute affecting the distribution of testamentary bequests was void as an infringement on the federal treaty power by virtue of the fact that the statute was at odds with a provision contained in a Treaty of Commerce and Friendship then existing between the U.S. and Germany, which had been entered upon in 1923. Holding that items of personalty are not covered by the terms of the treaty, the Court ruled that the state statute which permitted non-resident aliens to receive testamentary dispositions only to the extent that Americans situated in the opposing nation could similarly take was not an unconstitutional intrusion into the field of foreign affairs which is "exclusively reserved by the Constitution to the Federal Government." Id. at 516. Ruling for the state, the Court wrote, "but here there is no treaty governing the rights of succession to personal property. Nor has California entered the forbidden domain of negotiating with a foreign country..." Id.

at 517 (citing with approval U.S. v. Curtiss-Wright Export Corporation, supra) (emphasis added).

Each of the cases discussed above, both individually and collectively, stands in support of the proposition that the conduct of foreign relations, especially insofar as they involve "negotiation", are a particular incidence of sovereignty and that sovereignty is in turn a feature of nations which only the United States as an entirety possesses and can therefore exercise.

Applying this proposition to the language of both the proposed Improvement Plan and the Marketing Act it becomes clear that any actions taken by a state established marketing board will infringe on this decidedly federal field and, therefore, will be deemed unlawful. Both the proposal and its empowering act provide for "the presentation of facts to, and negotiations with,...foreign governmental agencies", for the purpose, inter alia, of achieving "the prevention, modification, or removal of trade barriers." Proposed Plan at Article I, Section A(12); Pd. & Ag. C. A. §§58604 and 58604.5.

This language can describe nothing other than formal discussions calculated to eliminate international trade barriers, both tariff and non-tariff, to the free flow of wines and winegrape products produced in California. As such, it stands in direct opposition to federal prerogatives which the Government, through a series of enactments, has pursued and will continue to pursue with all nations regarding products of interest to the United States. If, however, the language cited above comprehends something other than

actual negotiation, it is impermissible, from a legislative perspective, as excessively vague with regard to the powers and objectives of the proposal for it fails to restrict the contemplated board from encroaching on the federal realm.

Thus, the proposed Improvement Plan is fatally flawed in two complimentary respects. First, it improperly bestows a power or authority upon a state board which is beyond the competence of the California legislature to bestow, and which, if exercised, will be stricken as an unconstitutional trespass in the federal domain. And, secondly, that the language of the plan, and of its parent statute, are impermissibly vague to satisfactorily fulfill the requirement that the purposes of any order be made clear at the time when it is noticed for public hearing and comment.

On the basis of the foregoing, the proposed Wine and Winegrape Improvement Plan must be withdrawn until reparations are made regarding its scope and permissible authority.

Furthermore, and as a practical matter, foreign nations appreciate the fact that serious commercial negotiation with individual states of the United States are fruitless insofar as the states are explicitly prohibited from entering upon any treaty, compact, or agreement (agreement having been interpreted to include both written and verbal acknowledgements or understandings involving public questions) and that, therefore, no tangible result can be gained by formally entertaining such delegations. Similarly, state delegations are incapable of offering any concession or benefit of consequence in return for like concessions from foreign sovereigns,

for no state can guarantee that the citizens, goods, services, or concerns of another nation will be welcome or accepted in the United States or that a proffered quid pro quo will be adopted in return for the removal of trade barriers.

Therefore, the proposed plan should be withdrawn because it is incapable of achieving the purpose for which it was developed and will consequently impose an unjustifiable assessment against both growers and processors without any concomitant benefit to those groups.

II) The Field of Trade and Tariff Negotiation
Has Been Preempted by Federal Action

The doctrine of federal preemption stems from the so-called Supremacy Clause found in Article VI of the Constitution which states that "this Constitution, and all the laws of the United States which shall be made in Pursuance thereof; and all treaties made, or which shall be made, under the authority of the United States, shall be the supreme law of the land;".

Federal preemption of state action arises in three principal situations. First, where state law directly conflicts with federal law or where federal law was enacted in such a fashion that it was expressly designed to preempt all existing state laws. The second form of federal preemption is that which applies in the case of state statutes and regulations which affect a federal area, such as interstate or foreign commerce, or foreign affairs, and which are inconsistent with federal policy or objectives. An example of this second class of federal preemption is the Supreme Court's decision

in People of the State of California v. Zook, 336 U.S. 725 (1949), wherein the Court stated:

[a]bsent Congressional action, the familiar test is that of uniformity versus locality; if a case falls within an area in commerce thought to demand a uniform national rule, state action is struck down. If the activity is one of predominantly local interests, state action is sustained. More accurately, the question is whether the state interest is outweighed by a national interest in the unhampered operation of interstate commerce.

336 U.S. 725, 728. The third type of federal preemption is that which applies where there is no direct conflict between the wording or application of state and federal statutes but where the Federal Government is presumed to have occupied a particular field by virtue of the pervasiveness or nature of its existing regulations. This third type of federal preemption is best exemplified by the decision in Rice v. Santa Fe Elevator Corporation, 331 U.S. 218 (1947), when the Supreme Court stated that warehouses engaged in the storage of grain for interstate or foreign commerce are in the federal domain, and added that Congress may, therefore, take unto itself all regulatory authority over them and that "the test, therefore, is whether the matter on which the state asserts the right to act is any way regulated by the federal act. If it is, the federal scheme prevails although it is a more modest, less pervasive regulatory plan than that of the state." Id. at 236.

In Carpenters Pension Trust for Southern California v. Kronschenbal, 460 F. Supp. 978 (affirmed 632 F.2d 745; cert. denied 453 U.S. 922) (1978), the District Court for the Central District of California considered an action filed by the Carpenters Pension Trust for declaratory judgment seeking to invalidate a state marriage

dissolution judgment which under California's community property law allocated a portion of pension benefits to non-participating spouses. Holding against the Trust, the Court stated that "the field of domestic relations is one which is peculiarly suited to state regulation and control, and particularly unsuited to control by the federal courts." *Id.* at 983. The court concluded that the established California state policy of community property should not be cavalierly set aside when neither the language of the federal Employee Retirement Income Securities Act (ERISA) nor the underlying policies of it would require preemption. Despite its holding, however, the Court noted early on that the supremacy clause of the Constitution does enable federal law to preempt both the state law and the state action in a given federal area and stated that "the clause establishes the essential tenet of federalism that state and local laws which impinge on an exclusive federal domain are not enforceable. This principle is referred to as the doctrine of preemption." *Id.* at 980 (emphasis added).

A second decision by the U.S. District Court for the Central District of California, also in 1978, which illustrates the application of the doctrine of federal preemption came in Glendale Federal Savings & Loan Association v. Fox, in which the court considered a declaratory judgment action filed against the Federal Home Loan Bank Board and various state officials seeking a judgment declaring that federal law, exclusively, governed the validity of "due-on-sale" clauses utilized in certain loan instruments. Granting plaintiff's motion for summary judgment, the Court held that the

state regulation regarding the validity and exerciseability of due-on-sale clauses was preempted by federal law. Recognizing that "occupation of a legislative 'field' by Congress in the exercise of a granted power is a familiar example of its Constitutional power to suspend state laws" 459 F. Supp. 903, 907, the Court concluded that the legislative history of the Federal Homeowners Loan Act evidenced a clear Congressional intent to delegate to the Federal Home Loan Bank Board complete authority to regulate federal savings and loan associations and that that field was thereby preempted.

A recent decision by the federal appeals court sitting in California also commented on the question of federal preemption. In San Diego Unified Port District v. Gianturco, the Court of Appeals for the Ninth Circuit considered an injunctive action brought by the local port district to prevent the enforcement of an evening flight curfew by the State Department of Transportation. The Court of Appeals held that in enacting the Quiet Community's Act of 1978 the Congress had intended to preempt state regulation of airspace management and the control of aircraft noise and that the State of California was not an "airport proprietor" within the meaning of the exemption from federal preemption which was contained in the Act. In reaching its decision, the Court noted that even though the Congress had not included a provision in the Act manifesting its intent to preempt state law in this area, that state authority might still be displaced if an intent to preempt was "implicitly contained in the federal statute's structure and purpose." 651 Fed. 2d 1306, 1310. The Court went on to state that:

Such an intent has been inferred when the state regulations cannot be enforced without 'impairing the federal superintendence of the field...' Florida Lime & Avocado Growers (Inc.) v. Paul, 373 U.S. 132, 142 (1963), or when 'the federal interest is so dominant that the federal system will be assumed to preclude enforcement of state laws on the same subject.' Rice v. Santa Fe Elevator Corporation, 331 U.S. 218, 230 (1947).

Id. at 1310.

The Ninth Circuit, as represented by the above cite, has recognized the existence of an overriding federal interest in a given area as one of the dominant factors to be considered in determining whether or not a scheme of federal regulation preempts a contrary state law or policy. In terms of the facts presented by both the proposed Wine and Winegrape Improvement Plan and the statute under which it has been promulgated, the issue becomes whether the federal interest in both foreign commerce and foreign affairs is so preeminent as to preclude state action. The application of the rules developed in the cases cited earlier demonstrate that the Federal interest, in the field of negotiation and foreign affairs, is so dominant that the Federal will, as manifested by numerous Congressional enactments, must be presumed to outweigh and preclude state action in the same area. As noted by the Ninth Circuit in San Diego Unified, *supra*, "the key to the scope of federal preemption is the intent of Congress in enacting the applicable federal legislation. ... If this intent does not appear in the statute, the above cases require us to evaluate the effect of the state action on the federal scheme to see if the state action impairs the objectives of national policy." Id.

The question of preemption by federal occupation of a given "field" was analyzed by the Ninth Circuit in Pacific Legal Foundation

v. State Energy Resources Conservation & Development Commission, an action challenging a variety of California statutes regulating the construction and operation of nuclear power plants. Plaintiff's challenged the state regulatory scheme on the grounds that it was preempted by the Atomic Energy Act and other federal statutes. On appeal, the Ninth Circuit concluded that those provisions of the California statutory scheme which imposed a moratorium on the construction of nuclear power plants until such time as the State Energy Commission developed a procedure for waste disposal, constituted a program which was designed to protect against hazards other than radiation and were therefore not preempted by the cited federal statutes, whose sole function was to protect against the radiation hazard inherent in nuclear plants. In the course of its decision the Court, at length, discussed the doctrine of federal preemption commenting that the question of Congressional intention and the application of the doctrine of preemption is simplest when the federal statute at issue explicitly prohibits state regulation of the same field; but it tempered that recognition by noting that when the federal statute contains no such prohibition that Congressional intent to preempt may be inferred from the nature of the federal regulatory scheme. 659 F.2d 903, 919 (1981).

In re Air Crash in Bali, Indonesia, on April 22, 1974, 684 F.2d 1301 (9th Cir. 1982), concerned a number of wrongful death actions which were consolidated in the U.S. District Court for the Central District of California where judgments were entered, pursuant

to jury verdicts, in favor of the plaintiffs, defendant Pan American World Airways appealed.

Among the issues considered on appeal was the Constitutionality of the Warsaw Convention and its limitation on air carrier liability, as well as the possible preemptive effects of the Convention on a California statute which permitted wrongful death recoveries to be limited by contract. The court, noting that the District Court failed to consider the preemptive effect of the Warsaw Convention, turned to a consideration of that issue and observed that the question was compounded by the Congress' failure to express its desire to preempt and also by the fact that the Convention specifically requires the application of local law to certain issues. At the same time though, the Court noted that "federal law may also preempt the application of state law where the state law stands as an obstacle to the accomplishment and execution of the full purposes and objectives of the Congress." *Id.* at 1307.

Turning to an examination of the provisions of the Convention itself, as well as the actions of Congress in its ratification of the Convention; and noting the importance of the liability limitation feature of the Convention and the Congress' desire to permit the unrestrained growth of both domestic and international air travel, the Court concluded that the Congress' intent at the time of ratification was still controlling today despite the fact that the liability limitations established by Convention were unjustifiable by today's standards. The Court ended its analysis by stating that the California law was indeed preempted by Congress'

ratification of the Warsaw Convention and ruled that preemption was based upon the fact that "the application of California laws suggested here necessarily conflicts with the Congressional scheme." Id. at 1308.

In Fidelity Federal Savings & Loan Association v. de la Cuesta, 458 U.S. 141, 102 S. Ct. 3014 (1982), the Supreme Court considered the appeal of an action brought by purchasers of real estate encumbered by deeds of trust, seeking declaratory and injunctive relief against a federally chartered savings and loan association's exercise of the due-on-sale clauses contained in the trust deeds. Following the consolidation of several actions, the Superior Court for Orange County granted summary judgment in favor of the savings and loan associations, purchasers were later denied review by the Supreme Court of California. Appeal was sought and granted to the Supreme Court on the question of whether the California due-on-sale clauses were preempted by the Homeowners Loan Act of 1933.

In a lengthy discussion of the doctrine of federal preemption the Court concluded that the Federal Home Loan Bank Board's regulations regarding the right of federally chartered savings and loan associations to exercise due-on-sale clauses barred the application of contrary state doctrines. In reaching its decision, the Court noted that the doctrine of preemption was rooted in the supremacy clause and that it required the court to examine Congressional intent, for preemption may be "either express or implied, and is compelled whether Congress' command is explicitly stated in the statute's language or implicitly contained in its

structure and purpose." 102 S. Ct. 3022. Citing with approval the decision in Rice v. Santa Fe Elevator, the Court added that:

Absent explicit preemptive language, Congress intent to supercede state law altogether may be inferred because "the scheme of federal regulation may be so pervasive as to make reasonable the inference that Congress left no room for the states to supplement it", because "the act of Congress may touch a field in which the federal interest is so dominant that the federal system will be assumed to preclude enforcement of state laws on the same subject", or because "the object sought to be obtained by federal law and the character of obligations imposed by it may reveal the same purpose."

Id.

Commenting that "federal regulations have no less preemptive effect than federal statutes." Id., the Court held that the Board's due-on-sale regulations were intended to preempt conflicting state limitations.

The doctrine of federal preemption, as expanded by the decision cited above, applies to the instant controversy in two distinct manners, namely, by occupation and by nature. The latter of these two principles, as mentioned above, holds that the states are preempted where a given area is of such a nature that the federal system must be presumed to have sole regulatory authority over it. As developed in Section I, above, the field of international relations is, and has been recognized as, an area whose composition will permit nothing less than uniform regulation, something which may only be achieved at the federal level.

Both the proposed plan and the Marketing Act have established an immediate conflict of authority with federal actions irrespective of the fact that an exercise of these state acts has

not yet been attempted. By introducing the field of international trade negotiation into the enumerated powers of the boards constituted under the Act, the California legislature has invested those boards with powers which have not resided in the hands of the states since the adoption of the federal Constitution. As such, they represent an attempt by the state to usurp a specific degree of federal power and do so by establishing a scheme of representation which may preclude successful negotiation and commercial exchange, pending a resolution of the conflict to the satisfaction of those with whom negotiations would be sought.

Against such a background the proposed plan cannot stand for it unnecessarily intrudes on federal ground and thereby impairs the negotiating ability of both state and federal authorities who desire equivalent ends by obfuscating the clear authority of one over the other. On the basis of judicial determination and the practicalities involved in the conduct of foreign relations, the question must be resolved in favor of the United States and consequently, the proposed plan must be withdrawn.

In addition to the federal nature of this question, the doctrine of preemption also operates in this instance to preclude the adoption of the proposed plan on the basis of prior occupation of the field by the United States.

As noted above, preemption operates to bar state action affecting those fields in which the United States has expressed a controlling interest in such a fashion as to manifest a Congressional intention that the states not interfere. Such an intent is witnessed

by the broad authorities conferred upon the Executive by the enactments of the Congress in the field of trade negotiations.

Prior to 1962 all negotiations, whether diplomatic or commercial, were conducted by the Department of State on behalf of the United States. In the Trade Expansion Act of 1962, 19 U.S.C. §1801, et. seq., the Congress created the Office of the Special Representative for Trade Negotiations and established it as the "chief negotiator of the United States for each negotiation under this subchapter", 19 U.S.C. §1871, which negotiations are directed to "maintain and enlarge foreign markets for the products of United States agriculture..." 19 U.S.C. §1801, the same avowed purpose as the Marketing Act under which the proposed plan has been promulgated. Fd. & Ag. C. A. §58654(d). The authority of the Special Trade Representative has been continued and updated since the enactment of the 1962 Act, and in 1979 that Office was renamed the Office of the United States Trade Representative, 19 USC §2171, 1979 Reorg. Plan No. 3, and was described as having "primary responsibility,...for developing, and for coordinating the implementation of, United States international trade policy, including commodity matters." Reorg. Plan No. 3, §1(b)(1).

These pronouncements, and the Congressional enactments upon which they are based, have established and empowered a particular office whose sole purpose is to represent the trade objectives of the United States and enter upon negotiations with foreign nations to ensure the unimpeded access of U.S. goods to foreign markets. The genesis of this development was the Congress' dissatisfaction with

the unevenness of the State Department's negotiating objectives, which often relegated trade and commercial matters to a lesser position in favor of broader diplomatic overtones. To answer these difficulties the Congress created an organ of government, the sole function of which is to act on behalf of the United States in matters of international trade and thereby insure a greater degree of success in commercial negotiations.

In light of such a history it would be a paradox to assert that the Congress did not intend to preempt the field of trade negotiation when it established the Office of the United States Trade Representative and placed it at the forefront of U.S. trade relations. To assume that this action did not further divorce foreign affairs power from the states would be to defeat the Congressional design of a single specialized organ speaking in the field of trade matters. This question of unitary representation in trade matters has so pervaded the Congress that it has renewed the quest for an independent unified Department of Trade to further consolidate the negotiating authority of the United States.

On the basis of the foregoing, it must be concluded that both the proposed plan and Marketing Act are preempted by contrary federal enactments and by the federal nature of the matters involved and, therefore, that the proposed plan should be withdrawn.

III) Neither the Proposed Improvement Plan Nor
the Agricultural Marketing Act Under Which
It Has Been Promulgated Are an Exercise of
State Authority under the Twenty-First Amendment

During the course of the hearing convened on June 13, 1984, to consider the Department's proposed Wine and Winegrape Improvement Plan, a question was raised by the Presiding Officer as to whether or not there was an inherent conflict, manifested by the Plan, between the admitted authority of the Federal Government over the field of international trade and negotiation, as discussed in Section I, above, and the regulatory control over matters pertaining to alcoholic beverages which has been recognized as residing in the hands of the states? Transcript at 193. This question is answered in the negative by a careful analysis of that Amendment's purpose, in contrast with that of the Marketing Act of 1937 under which this Plan has been proposed.

As correctly noted by the Presiding Officer, a series of opinions authored by Mr. Justice Brandeis, discussed infra, have interpreted Section 2 of the Twenty-First Amendment as bestowing upon the states the full and exclusive range of regulatory authority over matters concerning the shipment, distribution, and sale of alcoholic beverages, in derogation of the federal powers residing in the Commerce Clause. Thus, states powers in this area have been described as encompassing the full spectrum of regulation from unencumbered access to complete prohibition, State Board of Equalization of California v. Young's Market Co. et al., 299 U.S. 59 (1936), without regard to discrimination between the products of the various states, Mahoney v. Joseph Triner Corporation, 304 U.S.

401 (1938). In sum, the unusual stature of the states in the field of alcohol regulation derives directly from the Constitution, rendering the area one which is sui generis and therefore without analogy or application to other questions of state and federal conflict. As such it is an authority to be jealously guarded and narrowly construed to avoid overly broad application.

The question of Twenty-First Amendment powers and their interplay or application to the present inquiry is, however, a misplaced one. The proposed plan is not an action taken to fulfill or exercise California's plenary authority to regulate the sale and shipment of alcoholic beverages because its fostering act, the Marketing Act of 1937, was not adopted to further Twenty-First Amendment goals but rather to facilitate the development of California's agriculture capacity.

The 1933 ratification of the Twenty-First Amendment repealed the prohibition on the consumption and sale of alcoholic beverages which had been established in 1919 by the Eighteenth Amendment. Section 2 of the Twenty-First Amendment turned the regulatory control of alcoholic beverages over to the states, saying,

[t]he transportation or importation into any State, Territory, or possession of the United States for delivery or use therein of intoxicating liquors, in violation of laws thereof, is hereby prohibited.

By this language the Constitution ceded to the states the authority to regulate liquor use within their individual captive borders by permitting state laws to control "delivery or use therein."

California, like all states, quickly enacted laws to give effect to their new and seemingly unfettered regulatory authority,

and in 1934 amended its State Constitution with the addition of Article XX, Section 22, providing a comprehensive framework for the establishment of a state alcoholic beverage control board and complimentary statutory framework for liquor control. See, Appendix A.

Thus, immediately after ratification of the Twenty-First Amendment to the United States Constitution the State of California moved to amend its own Constitution to fill the regulatory void left by the repeal of prohibition.² Following the 1933 federal repeal and pursuant to the mandate of Article XX, Section 22, California adopted its comprehensive Alcoholic Beverage Control Act, B. & P. C. A. §23000, et. seq., which regulated, and continues to do so, all aspects of licensing, distribution, excise tax levy and collection, price and contract use, labeling and fill, and the operation of the Alcoholic Beverage Control Board, as well as a host of other areas. In sum, the California ABC statute establishes a pervasive scheme for alcohol regulation which separates these products from all other commodities in commerce in the state. In point of fact, California has established so strong a body of alcoholic regulation that its Food, Drug and Cosmetic law was subordinated to the ABC Code by §26052 which states that in the event of a conflict the Alcoholic Beverage Control Act shall control. Pd. & Ag. C. A. §26052.

²/California actually amended its State Constitution by adding Art. XX, Section 22 in 1932, the year before repeal, but conditioned the amendment by prefacing it with the statement that "In the event of repeal, etc." Thus, California in anticipation of repeal moved towards the development of a replacement before the Twenty-First Amendment was ratified. In 1934, the conditional "In

Quite separate from this scheme of control over alcoholic beverage consumption in the state stands the Marketing Act of 1937 whose need and purpose is stated as follows:

It is hereby declared that the marketing of commodities in this state in excess of reasonable and normal market demands therefor; disorderly marketing of such commodities, improper preparation for market and lack of uniform grading and classification of commodities; unfair methods of competition in the marketing of commodities; and the inability of individual producers to maintain present markets or to develop new or larger markets for California-grown commodities, resulted in an unreasonable and unnecessary waste of the agricultural wealth of this state.

Such conditions and the accompanying waste jeopardize the future continued production of adequate supplies of food, fiber, and other products of the farm and of the soil for the people of this and other states, and prevent producers from obtaining a fair return from their labor, their farms, and the commodities which they produce.

As a consequence, the purchasing power of such producers has been in the past, and may continue to be in the future, unless such conditions are remedied, low in relation to that of persons engaged in other gainful occupations within the state. Producers are thereby prevented from maintaining a proper standard of living and from contributing their fair share to the support of the necessary governmental and educational functions, thus tending to increase unfairly the tax burdens of other citizens of this state.

Fd. & Ag. C. A. §58651. This articulated purpose of the Marketing Act differs substantially from that attributed to the ABC Code, namely

(cont.)
the event" language was deleted.

This division is an exercise of the police powers of the State of the protection of the safety, welfare, health, peace, and morals of the people of the State, to eliminate the evils of unlicensed and unlawful manufacture, selling, and disposing of alcoholic beverages, and to promote temperance in the use and consumption of alcoholic beverages. It is hereby declared that the subject matter of this division involves in the highest degree the economic, social, and moral well-being and the safety of the State and of all its people.

B.&P.C.A. §23001 (emphasis added).

Thus, both statutes represent widely divergent objectives. The ABC Code to control, under the states police power, the use of alcoholic beverages; while the Marketing Act professes to address the commercial concerns of the agricultural sector. The question to be resolved is which of the two represents an enactment adopted to further the aims of the Twenty-First Amendment and of Article XX of the State Constitution?

The question of coverage under the Twenty-First Amendment arises in the present context because wine possesses a dual nature, it is at the same time both a product of agriculture as well as an alcoholic beverage. It is, therefore, rightfully controlled by both of the quoted enactments, though in decidedly distinct fashions. It is undeniable that California's ABC Code was enacted to fulfill the objectives of the Twenty-First Amendment, a similar purpose cannot be ascribed to the Marketing Act of 1937. Nothing in the Marketing Act demonstrates a desire to give effect to Twenty-First Amendment's objectives, and that Act provides no special references regarding the coverage of wine, other than to confirm that is indeed an agricultural product under the Act.

In essence, these statutes divide wine into two different categories of regulation. One, the ABC Code, regulates it as an alcoholic beverage and hence as a Twenty-First Amendment product. The other, the Agricultural Marketing Act, regulates wine as an agricultural product and ignores its alcoholic nature. The question thus framed is whether this separate treatment of wine results in different treatment for the two Acts.

Some guidance regarding the resolution of this inquiry was afforded by the Supreme Court last week in its decision in Capital Cities Cable, Inc. v. Crisp, __ U.S. __, __ U.S.L.W. __, No. 82-1795 (1984). Capital Cities involved an Oklahoma statute which prohibited the televised advertising of alcoholic beverages. In 1980 the State Attorney General determined that the State's ban on advertising included pay or cable television as well as broadcast television, and the Oklahoma Alcoholic Beverage Control Board thereafter advised petitioners that they would be prosecuted if they continued to retransmit out-of-state signals containing alcoholic beverage commercials, particularly wine commercials. Petitioner's filed suit challenging the Oklahoma statute on the grounds that it was preempted by contrary federal law and was a violation of the Constitution as a restraint of commercial speech under the First Amendment.

In an opinion touching on all facets of the question posed by both the proposed improvement plan and its enabling act, the Court considered the preemptive effects of federal law and the powers of the Congress under the Commerce Clause, as against the State's prerogatives under the Twenty-First Amendment, and held that the

Oklahoma advertising prohibition was preempted by the contrary policy contained in both FCC regulations and federal copyright law which together barred cable television system operators from altering or modifying in any fashion the television signals which they transmit. Recognizing that "the Twenty-First Amendment ousted the Federal Government of all jurisdiction over interstate traffic in liquor, we have held that when a State has not attempted directly to regulate the sale or use of liquor within its borders -- the core §2 power -- a conflicting exercise of federal authority may prevail", Id., Slip Op. at 20. Weighing the relative interests of Oklahoma in regulating alcoholic beverage advertising with the federal goal of insuring widespread availability of cable services through the United States the Court reasoned that "it is clear that the state's interest is not of the same stature as the goals identified in the FCC's rulings and regulations." Id., at 23. Holding the Oklahoma statute preempted by federal policy the Court stated that where

the state's central power under the Twenty-First Amendment of regulating the times, places, and manner under which liquor may be imported and sold is not directly implicated, the balance between state and federal power tips decisively in favor of the federal law, and enforcement of the state statute is barred by the Supremacy Clause.

Id.

Combining the comparative analysis of the California liquor control provisions and Marketing Act with the Court's analysis in Capital Cities, it must be concluded that no conflict between the Twenty-First Amendment powers of the state and the federal prerogative in the field of foreign affairs and relations exists by virtue of

the proposed plan and its fostering statute, and that Twenty-First Amendment claims are inapposite to the present inquiry.

The Marketing Act of 1937, because it does not represent a time, place, or manner control, cannot be viewed as a Twenty-First Amendment form of regulation. Failing to exercise the core §2 rights of that Amendment, the Marketing Act, and therefore its progeny, the proposed plan, must yield to the superior federal interest present here and as stated in Section I above. The application of the balancing test comprehended by Capital Cities when weighted with these competing interests "tips decisively in favor of the federal law."

On the basis of the foregoing analysis, the actions taken pursuant to state authority as represented by both the Proposed Plan the Marketing Act are beyond or outside the penumbra of the Twenty-First Amendment and, consequently, federal authority is unconstrained by the authorities established in that Amendment.

IV) Even if the Twenty-First Amendment Applies to the Question at Hand, It is Without Effect Here in that the Twenty-First Amendment Constricts Only the Federal Commerce Power, and then Only to a Limited Degree

As discussed in Section III above, the Twenty-First Amendment has been recognized as conferring upon the states nearly plenary power over the regulation of alcoholic beverages within their borders. Shortly after the ratification of the Twenty-First Amendment the Supreme Court, in a series of decisions, enumerated the scope and effect of the Twenty-First Amendment's repeal of prohibition and substitution of state law as the dominant vehicle for alcoholic beverage control.

In State Board of Equalization of California et al. v. Young's Market Co. et al., 299 U.S. 59 (1936) the Court considered an appeal from the Southern District of California which had overturned a California statute requiring all beer importers to obtain a license prior to selling any beer in the state. Considering plaintiff's allegations that the license requirement, and the fee associated with it, discriminated against importers and violated the strictures of the Commerce Clause, the Court stated that it was clear that the language of the Amendment permitted complete prohibition by the states and opined that "[s]urely the state may adopt a lesser degree of regulation than total prohibition." Id. at 63. Turning to the equal protection argument posed by plaintiff's claim of discrimination against imports, the Court recognized the implicit differentiation which the Twenty-First Amendment comprehends by bestowing power upon the state to regulate within their borders and concluded that "[a] classification recognized by the Twenty-First Amendment cannot be deemed forbidden by the Fourteenth." Id., at 64.

In Mahoney v. Joseph Triner Corporation, 304 U.S. 401 (1938) the Court again considered an argument based upon equal protection claims against a Minnesota statute which barred licensed manufacturers and wholesalers from importing any brand containing more than 25 percent alcohol unless such brand was registered in the U.S. Patent Office. At the time of the statute's enactment Joseph Triner Corporation had on hand an inventory of unregistered brands and filed suit to enjoin the enforcement of the statute on the basis that the act unlawfully discriminated against out-of-state brands.

The Court, citing with approval its decision in State Board, upheld the Minnesota statute as a permissible regulation under the Twenty-First Amendment notwithstanding its clear discrimination and summarized its conclusion by referring to State Board in stating "[t]hat, under the Amendment, discrimination against imported liquor is permissible although it is not an incidence of reasonable regulation of liquor traffic, was settled by State Board of Equalization v. Young's Market Co." Id., at 403.

The year following its decision in Mahoney, the Court addressed these same issues in two separate opinions, also delivered by Justice Brandeis. In Indianapolis Brewing Co., Inc. v. Liquor Control Commission of State of Michigan, et al., the Court considered a Michigan statute which prohibited any dealer in the state from selling any beer which was produced in a state that discriminated against Michigan beer. Citing both Mahoney and State Board, the Court upheld the Michigan statute and stated that "the right of a state to prohibit or regulate the importation of intoxicating liquor is not limited by the commerce clause; and...discrimination...is not prohibited by the equal protection clause." Id., 305 U.S. 391, at 394 (1938).

In a second decision released the same day as Indianapolis Brewing, supra, the Court further commented on the authorities of the states under the Twenty-First Amendment by upholding a Missouri statute which was similar to the Michigan statute at issue in Indianapolis Brewing, stating that "[s]ince that amendment, the right of a State to prohibit or regulate the importation of intoxicating

liquor is not limited by the commerce clause." Joseph S. Finch & Co., et al. v. McKittrick, 305 U.S. 375, at 398 (1938).

These four decisions as a group first defined the parameters of state power under the Twenty-First Amendment and established that the Amendment permitted states to regulate alcoholic beverages in a fashion which, absent the Amendment, would not otherwise be permissible under either the Commerce Clause or the Fourteenth Amendment. Yet the Court almost simultaneously recognized limitations in the Twenty-First Amendment when, only a few months after its decision in Finch, it upheld, in a Per Curiam opinion, the enactment of the Federal Alcohol Administration Act over the claim that the Twenty-First Amendment gave the states complete and exclusive control over commerce in intoxicating liquors.

Considering the propriety of labeling regulations issued under that Act, which had been the basis for excluding plaintiffs' importations of "blended Scotch whiskey", the Court summarily denied the contention that the Congress no longer had authority to control the importation of alcoholic beverages into the United States by stating that "[w]e see no substance in this contention." William Jameson & Co., Inc. v. Morgantheau, 307 U.S. 171, at 172 (1939).

Thus the Court recognized early-on that while the Twenty-First Amendment acted to confine some Commerce Clause analysis, that it was without affect with regard to those commerce powers of the Congress which ran to matters of foreign imports, and since the decision in Jameson the effect of the Twenty-First Amendment has been continuously narrowed.

In Hostetter v. Idlewild Bon Voyage Liquor Corporation, 337 U.S. 324 (1966), the Court substantially revived the Commerce Clause in the field of alcohol regulation when it considered an action by the New York State Liquor Authority which, upon advice of the State Attorney General, informed Idlewild Corporation that its business of selling in-bond liquor, under Customs Service supervision, to departing passengers at John F. Kennedy Airport for delivery to them upon arrival overseas was unlawful because it was an unlicensed seller and, furthermore, that it could not obtain a New York liquor license because it did not operate a store with a street front as required by New York's Alcoholic Beverage Control Laws. The Court, recognizing that New York's ABC law was a fulfillment of its authorities under the Twenty-First Amendment and that its prior decisions, State Board, Indianapolis Brewing, and Pinch, left the states unconstrained by traditional Commerce Clause limitations, tempered the scope of the Twenty-First Amendment by stating that,

[t]o draw a conclusion from this line of decisions that the Twenty-First Amendment has somehow operated to "repeal" the Commerce Clause whenever regulation of intoxicating liquors is concerned would, however, be an absurd oversimplification. If the Commerce Clause had been pro tanto "repealed" then Congress would be left with no regulatory power over interstate or foreign commerce in intoxicating liquor. Such a conclusion would be patently bizarre and is demonstrably incorrect.

Id., at 332.

Concluding that the state controls at issue could not be applied to sales involving ultimate delivery in a foreign country and noting that no danger of diversion of intoxicants into the state existed, the Court affirmed the Southern District's decision to

enjoin the State Authority and simultaneously established a new standard of analysis by stating that:

[b]oth the Twenty-First Amendment and the Commerce Clause are parts of the same Constitution. Like other provisions of the Constitution, each must be considered in the light of the other, and in the context of the issues and interests at stake in any concrete case.

Id., at 332.

Since the Court's decision in Hostetter, the reach and affect of the Twenty-First Amendment has been further refined by opinions holding that the Amendment did not erase the guarantees of due process, Wisconsin v. Constantineau, 400 U.S. 433 (1971), or of equal protection with regard to the classification of who may and may not be served alcoholic beverages, Craig v. Boren, 429 U.S. 190 (1976). Even prior to its Hostetter decision, the Court, in Department of Revenue v. James B. Beam Distilling Co., held, in a case of first impression, that the Export-Import Clause of the Constitution is unaffected by the Twenty-First Amendment and hence, that Kentucky's excise tax on liquor originating outside the state was unconstitutional. 377 U.S. 341 (1964).

Thus, the range of effects which may emanate from proper Twenty-First Amendment regulation have been gradually narrowed by the successive exclusion of import regulation, equal protection, foreign commerce powers, and due process considerations, from the list of federally controlled areas which must surrender to state authority. The stature of the Twenty-First Amendment as against other conflicting federal powers was summarized in California Retail Liquor Dealers Association v. Midcal Aluminum Inc., et al., 445 U.S. 97

(1980) wherein the Court considered California's wine pricing system which, at the time, required all wholesalers who had not filed price schedules or fair trade contracts with the State to post a resale price schedule from which the wholesaler could not deviate when dealing with a retailer under penalty of fine, suspension of license, or revocation. A California wholesaler charged with selling below his posted schedule brought suit to enjoin the enforcement of the pricing scheme on the grounds that it constituted resale price maintenance in violation of the Sherman Act. Respondents countered by alleging, inter alia, that the state law was insulated from the Sherman Act, a federal statute enacted pursuant to the Commerce Clause, by §2 of the Twenty-First Amendment.

Tracing the history of judicial interpretation, the Court noted the many decisions which have refined the scope of state powers under the Twenty-First Amendment and cited with approval the decisions in William Jameson, James B. Beam, Craig, Constantineau, and Hostetter, and stated that "[t]hese decisions demonstrate that there is no bright line between federal and state powers over liquor." Id., at 110. Holding the state pricing scheme not superior to the Sherman Act on Twenty-First Amendment grounds the Court concluded that the objectives of the state laws were simply not of the same stature as the goals of the Sherman Act and "that the asserted state interests are less substantial than the national policy in favor of competition." Id., at 113.

Following the Court's decision in Midcal Aluminum, the Twenty-First Amendment essentially stands as a measure which is to

be weighed against competing federal domestic commerce powers whenever a conflict arises, by employing the balancing test first described in Hostetter and most recently affirmed in Capital Cities. With regard to all other federal rights and policies, including foreign commerce (William Jameson Co.) and the export-import clause (James B. Beam Distilling Co.), however, the Twenty-First Amendment is inferior without resort to balancing.

Therefore, the Twenty-First Amendment and its grant of authority to the states regarding the regulation of alcoholic beverages is inapplicable to the situation presented by both the proposed plan and Marketing Act because the federal powers involved originate in the foreign commerce and affairs powers of the United States and not from the narrow confines of traditional interstate commerce clause applications. Because the Twenty-First Amendment is inapposite to these issues, they stand unencumbered by state authority and, as discussed earlier, supercede all contrary or conflicting state actions, whether legislative or administrative. The accuracy of this conclusion is bolstered by the language of the aforementioned Article XX, Section 22 of the California Constitution which specifies that the State's alcoholic beverage controls will be "subject to the laws of the United States regulating commerce between foreign nations and among the states." See, Appendix A.

V) Certain Definitions Contained in the Proposed
Plan Conflict with Federal Regulatory Guidelines

Section A of the Proposed Wine and Winegrape Improvement Plan contains definitions for the terms used in the Plan. A number of these definitions conflict with existing regulatory definitions promulgated by both the United States Department of Agriculture and the Bureau of Alcohol, Tobacco, and Firearms. The regulations issued by USDA and the BATF were promulgated under the authorities provided in the Food, Drug and Cosmetic Act and the federal Alcohol Administration Act, respectively. As with other regulatory provisions, they carry the force and effect of law, see, Fidelity Federal Savings & Loan Association v. De La Cuesta, supra, and are therefore as preemptive and controlling as federal statutory law itself.

The language employed in the proposal to define certain terms presents a dichotomy of treatment that witnesses a partial recognition of federal regulatory control while simultaneously ignoring it. Subsection 18 of Section A of the proposal specifically incorporates the definition of "Wine" which was promulgated under the authority of the Federal Alcohol Act. By comparison, and as a component of the instant dilemma, the proposed plan adopts two definitions which are on the one hand at odds with an existing regulatory definition under the Federal Alcohol Administration Act, and on other, unknown to that Act.

Subsection 3 of the proposal defines "Brandy" as a distillate at not over 170 degrees proof. In contrast, 27 C.F.R. §5.22(d) defines "Brandy" as a distillate not over 190 degrees proof.

Similarly, the proposal at subsection 10 adopts the term "high proof" as referring to an alcoholic distillate obtained from winegrapes. Such a product is unknown among the definitions promulgated by the BATF. Thus, the proposal wishes to borrow one component of federal control while ignoring another, a procedure which logic dictates it cannot follow for the articulated policies underlying the regulations will supercede the unspoken need for the arbitrary phraseology of the proposal.

Similarly, the proposal provides, without explanation, diluted or simplified definitions for "Grape juice" or "juice" in subsection 7, and for "Grape concentrate" or "concentrate" in subsection 6. As with "Brandy", above, each of these terms has been defined pursuant to federal law so as to insure uniformity of classification at all levels of consumption and to give effect to federal police powers inherent in the Commerce Clause which is discussed above are unconstrained by Twenty-First Amendment considerations in the present setting. Absent an apparent or articulated state need to digress from existing federal regulation, these proposed definitions must fail, for to do otherwise would be to unnecessarily interrupt and confuse longstanding federal practice regarding the proper classification of these products.

On the basis of the foregoing, the proposed plan should be withdrawn pending the rectification of conflicts with existing federal guidelines.

VI) Conclusion

In summary, the proposal put forth by the Department of Food and Agriculture pursuant to the California Marketing Act of 1937 is inerascably tainted by the State's enactment of an overly broad Act that expressly encroaches upon the sovereign and preeminent powers of the United States. The Marketing Act by its terms empowers the agricultural marketing boards established under it to promote agricultural products by negotiating with foreign nations.

This grant of authority by the State is both ineffective and unconstitutional. It is ineffective for the State may only delegate to its administrative agencies, here the Department of Food and Agriculture, those authorities which it itself possesses. As demonstrated earlier, the States, by adopting the Federal Constitution, surrendered their sovereign powers to the United States and thereby divested themselves of the power to deal independently with foreign nations. California, therefore, did not possess the authority to negotiate with foreign nations and could not pass such authority to its state boards. Consequently, the Act is ineffective as a grant of such power power.

Similarly, the Act and its proposed exercise are unconstitutional as an excessive intrusion into a sphere of reserved federal powers which emanate from the sovereignty of the United States as a whole, and not from the individual states. It is beyond dispute that the United States speaks with a single voice in its dealings with other nations. Any other premise would so divide the interests of the nation that it could not evenly maintain the

rights of all its citizens in the realm of world affairs. Consequently, the power to deal and negotiate with foreign states is reserved, exclusively, to the Federal Government, so as to insure uniformity of objective and efficiency of operation. When, here, a State law trespasses upon this federal domain, both the law and its progeny must stand as a nullity, lest the actions of the United States as a whole be questioned because of the competing state action. The impermissibility of such a result demonstrates that the proposal, and its fostering act, must yield to superior federal interests, and that therefore, the Proposed Wine and Winegrape Improvement Plan must be withdrawn.

This result is not modified by the existence of competing state authority established in the Twenty-First Amendment for that authority is both narrow in scope and inapplicable to the non-traditional Commerce Clause powers of the United States involved here. As a result, the competing interests of the State and of the United States must be analyzed upon their own independent merits.

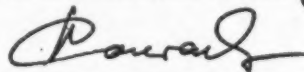
As demonstrated earlier, an analysis of issues presented by the Proposed Plan can result only in the conclusion that, as drafted, both the Plan and Marketing Act are fatally flawed by improperly appropriating federal powers in the fields of foreign commerce and international negotiation. Because of these inconsistencies and excesses, the Proposal and all future actions taken under the Marketing Act, which present the same terms, are and will be tainted with the conflicts discussed earlier, and will, therefore, fail in the face of superior federal authority.

This discussion, however, does not address those actions which, if not shrouded in state action, would constitute proper action by private parties in the furtherance of their self interests. We offer no analysis with regard to the permissible scope of non-governmental actions, except to note that there are areas of commercial or business endeavor (e.g. Education, wine tastings, see Tr. 212) open to private individuals, cooperating in a voluntary venture, which by law are unavailable to the states in their governmental capacities.

On the basis of any and all of the foregoing, the Proposed California Wine and Winegrape Improvement Program should be withdrawn.

Respectfully submitted,

JOSEPH E. SEAGRAM & SONS, INC.
HEUBLEIN WINES
NATIONAL DISTILLERS PRODUCTS CO.

By: 

BARNES, RICHARDSON & COLBURN
1819 H Street, NW
Washington, D.C. 20006

James H. Lundquist
Gunter von Conrad
Matthew J. Clark
Of Counsel

June 27, 1984

Constitution of the State of California
(Cal. Const. A., Article XX, §22)

Article XX

Section 22 - Alcoholic Beverage Control

The State of California, subject to the internal revenue laws of the United States, shall have the exclusive right and power to license and regulate the manufacture, sale, purchase, possession and transportation of alcoholic beverages within the State, and subject to the laws of the United States regulating commerce between foreign nations and among the states shall have the exclusive right and power to regulate the importation into and exportation from the State, of alcoholic beverages. In the exercise of these rights and powers, the Legislature shall not constitute the State or any agency thereof a manufacturer or seller of alcoholic beverages.

All alcoholic beverages may be bought, sold, served, consumed and otherwise disposed of in premises which shall be licensed as provided by the Legislature. In providing for the licensing of premises, the Legislature may provide for the issuance of, among other licenses, licenses for the following types of premises where the alcoholic beverages specified in the licenses may be sold and served for consumption upon the premises:

- (a) For bona fide public eating places, as defined by the Legislature.
- (b) For public premises in which food shall not be sold or served as in a bona fide public eating place, but upon which premises the Legislature may permit the sale or service of food products incidental to the sale and service of alcoholic beverages. No person under the age of 21 years shall be permitted to enter and remain in any such premises without lawful business therein.
- (c) For public premises for the sale and service of beers alone.
- (d) Under such conditions as the Legislature may impose, for railroad dining or club cars, passenger ships, common carriers by air, and bona fide clubs after such clubs have been lawfully operated for not less than one year.

The sale, furnishing, giving, or causing to be sold, furnished, or giving away of any alcoholic beverage to any person under the age of 21 years, and no person under the age of 21 years shall purchase any alcoholic beverage.

The Director of Alcoholic Beverage Control shall be the head of the Department of Alcoholic Beverage Control, shall be appointed by the

Governor subject to confirmation by a majority vote of all of the members elected to the Senate, and shall serve at the pleasure of the Governor. The director may be removed from office by the Governor, and the Legislature shall have the power, by a majority vote of all members elected to each house, to remove the director from office for dereliction of duty or corruption or incompetency. The director may appoint three persons who shall be exempt from civil service, in addition to the person he is authorized to appoint by Section 4 of Article XXIV.

The Department of Alcoholic Beverage Control shall have the exclusive power, except as herein provided and in accordance with laws enacted by the legislature, to license the manufacture, importation and sale of alcoholic beverages in this State, and to collect license fees or occupation taxes on account thereof. The department shall have the power, in its discretion, to deny, suspend, or revoke any specific alcoholic beverage license if it shall determine for good cause that the granting or continuance of such license would be contrary to public welfare or morals, or that a person seeking or holding a license has violated any law prohibiting conduct involving moral turpitude. It shall be unlawful for any person other than a licensee of said department to manufacture, import or sell alcoholic beverages in this State.

The Alcoholic Beverage Control Appeals Board shall consist of three members appointed by the Governor, subject to confirmation by a majority vote of all of the members elected to the Senate. Each member, at the time of his initial appointment, shall be a resident of a different county from the one in which either of the other members resides. The members of the board may be removed from office by the Governor, and the Legislature shall have the power, by a majority vote of all members elected to each house, to remove any member from office for dereliction of duty or corruption or incompetency.

When any person aggrieved thereby appeals from a decision of the department ordering any penalty assessment, issuing, denying, transferring, suspending or revoking any license for the manufacture, importation, or sale of alcoholic beverages, the board shall review the decision subject to such limitations as may be imposed by the Legislature. In such cases, the board shall not receive evidence in addition to that considered by the department. Review by the board of a decision of the department shall be limited to the questions whether the department has proceeded in the manner required by law, whether the decision is supported by the findings, and whether the findings are supported by substantial evidence in the light of the whole record. In appeals where the board finds that there is relevant evidence which, in the exercise of reasonable diligence, could not have been produced or which was improperly excluded at the hearing before the department it may enter an order remanding the matter to the department for reconsideration in the light of such evidence. In all other appeals the board shall enter an order either affirming or reversing the decision of the department. When the order reverses the decision of the department, the board may direct the reconsideration of the matter in the light of its order and may

direct the department to take such further action as is specially enjoined upon it by law, but the order shall not limit or control in any way the discretion vested by law in the department. Orders of the board shall be subject to judicial review upon petition of the director or any party aggrieved by such order.

A concurrent resolution for the removal of either the director or any member of the board may be introduced in the Legislature only if five Members of the Senate, or 10 Members of the Assembly, join as authors.

Until the Legislature shall otherwise provide, the privilege of keeping, buying, selling, serving, and other disposing of alcoholic beverages in bona fide hotels, restaurants, cafes, cafeterias, railroad dining or club cars, passenger ships, and other public eating places, and in bona fide clubs after such clubs have been lawfully operated for not less than one year, and the privilege of keeping, buying, selling, serving, and other disposing of beers on any premises open to the general public shall be licensed and regulated under the applicable provisions of the Alcoholic Beverage Control Act, insofar as the same are not inconsistent with the provisions hereof, and excepting that the license fee to be charged bona fide hotels, restaurants, cafes, cafeterias, railroad dining or club cars, passenger ships, and other public eating places, and any bona fide clubs after such clubs have been lawfully operating for not less than one year, for the privilege of keeping, buying, selling, or otherwise disposing of alcoholic beverages, shall be the amounts prescribed as of the operative date hereof, subject to the power of the Legislature to change such fees.

The State Board of Equalization shall assess and collect such excise taxes as are or may be imposed by the Legislature on account of the manufacture, importation and sale of alcoholic beverages in this State.

The Legislature may authorize, subject to reasonable restrictions, the sale in retail stores of alcoholic beverages contained in the original packages, where such alcoholic beverages are not to be consumed on the premises where sold; and may provide for the issuance of all types of licenses necessary to carry on the activities referred to in the first paragraph of this section, including, but not limited to, licenses necessary for the manufacture, production, processing, importation, exportation, transportation, wholesaling, distribution, and sale of any and all kinds of alcoholic beverages.

The Legislature shall provide for apportioning the amounts collected for license fees or occupation taxes under the provisions hereof between the State and the cities, counties and cities and counties of the State, in such manner as the Legislature may deem proper.

All constitutional provisions and laws inconsistent with the provisions hereof are hereby repealed.

The provisions of this section shall be self-executing, but nothing herein shall prohibit the Legislature from enacting laws implementing and not inconsistent with such provisions.

Mr. VON CONRAD. Mr. Chairman, also we are pleased to provide you with the materials that we had prepared in that California matter. Those briefs might be——

Chairman GIBBONS. We would like to look at them. We may print them if they are short, really brief.

Mr. LUNDQUIST. You may find them of use in preparing——

Chairman GIBBONS. I am sure we will. Thank you very much for coming.

Doreen L. Brown is the next witness, Consumers for World Trade.

STATEMENT OF DOREEN L. BROWN, PRESIDENT, CONSUMERS FOR WORLD TRADE

Ms. BROWN. Thank you. My statement is blessedly short if you don't mind my reading it into the record. I am beginning to share your pangs of hunger.

Chairman GIBBONS. Mr. Frenzel doesn't eat and the whole Congress almost quit eating because of him. He threw the Congress out of its dining room and everything else, but we have recovered it slowly but painfully.

Ms. BROWN. Consumers for World Trade strongly opposes the bill which is being considered as a substitute for H.R. 3795 to reduce trade barriers and increase market opportunities for domestically produced wine. Our opposition is based on the potential cost and availability effect for American consumers and on the protectionist approach and goal of the proposed legislation.

CWT opposed H.R. 3795 in its original form because of its requirements for "mirror" and "sectoral" reciprocity, both of which would have serious repercussions for other trade sectors. We agreed fully with the statement for the Administration made by C. Michael Hathaway, Deputy General Counsel in the office of the U.S. Trade Representative:

It becomes a very slippery slope to protectionism when one country starts setting up its own trade barriers in an attempt to get others to reduce theirs.

The substitute bill to which we are addressing ourselves today has not changed our mind about the protectionist intent of the legislation.

Primarily, we reject the concept that legislation is warranted or that the domestic vintners have a legitimate complaint. Both the International Trade Commission's determination of March of this year and research done at the time of the ITC case show conclusively that the domestic industry is not being injured because of imports; that leading imported wines sell for higher average prices than domestic wines and, therefore, are not being dumped on the U.S. market; and that the alleged subsidies program by the European Community takes the form of diversion payments to encourage storage of surpluses or their conversion to alcohol, thereby relieving the pressure on importing countries rather than encouraging exports.

It is CWT's view that the fact that the growth of the sale of American wines to foreign markets has been sharply reduced is due mainly to overproduction here and abroad and to the overvaluation of the dollar which favors European exports and hampers

American exports. This is true for many U.S. export products, not just wine alone.

Protectionist measures by addressing themselves to the wrong issue will not correct either of these situations. Any short-term benefits to American wine growers which would result from trade restraints, would become an unjustified economic burden for American consumers.

CWT supports export expansion but believes that it should be accomplished through persistent negotiations with our trading partners, improved marketing methods, and correction of the economic conditions which cause the misalignment of the dollar vis-a-vis other currencies.

The proposals contained in the substitute bill ignore the facts mentioned above and continue to direct themselves toward trade restrictions on wine imports.

An aggressive investigation of the trading practices of our major trading partners in wine as called for in this legislation, deliberately seeking out tariff and nontariff barriers to our exports whether or not a complaint has been filed against these countries, is a massive, time-consuming, and costly undertaking which circumvents the process which has been established under section 301 of the 1974 Trade Act.

We suspect that the United States would not welcome other countries carrying out a similar investigation over here. In addition, this burdensome project would result in an undue economic demand on American taxpayers as well as on the countries involved.

Section 301 cases, at best, are a long and involved process costly to the petitioners, the Government, and all other parties. Is this part of the proposal not a clear indication of the domestic industry's determination to receive protection from competition through import restrictions, just as it did in the original H.R. 3795?

Should this legislation be adopted, it is realistic to anticipate retaliation from our trading partners. As in many other cases of protectionist policies, the American agricultural sector is the most vulnerable. And consumers, of course, are forced to bear the economic consequences of a burgeoning trade war.

What is most objectionable about both the original and substitute versions of this bill is that they require sectoral reciprocity. CWT concurs with the sentiments expressed by Ambassador Brock contained in a letter to us in February 1984.

He wrote:

It is our belief that a requirement for equal treatment within a single product line undermines the concept of general reciprocity and comparative advantage which is the basis for all international trade negotiations. If this were to become the guiding principle for our trade policy, trade would contract rather than expand.

American consumers would be the principal victims of this legislation. At the present time, consumers are being provided a wide choice in the marketplace and competitive prices.

I would like to show for the record that the word "competitive" had been inadvertently omitted from the text.

This is the primary purpose of international trade and should be reflected in U.S. trade policy.

CWT, therefore, urges this subcommittee to reject the substitute bill under consideration.

Chairman GIBBONS. We thank you.

Bill, do you have any questions?

Mr. FRENZEL. No. It is a good statement in my judgment. Thank you, Madam President, for bringing it to us. The people who always get to carry the load around here are the consumers.

They pay a little higher prices when folks want to lock up the market and if we lock it up well enough as we did in the early thirties we can manage to distribute the kicks in the head around to 100 percent of our population.

I thank you for being the sometimes very lonely voice of the consumer in these matters and we sure need to have your point of view here. Thank you.

Chairman GIBBONS. In modifying our trade laws, perhaps it would be a good idea to give the consumer an opportunity to come in and be a party to these cases, not just this law or any law. I don't think the consumers are adequately represented in most of these cases that I see here.

Have you thought about that at all?

Take the steel case. You know, I am already getting people from the steel industry who manufacture steel coming to me and saying, "Good gosh, if the President takes any of those options that have been presented to him, the rest of us are all going to be in trouble."

Ms. BROWN. You mean be a party in ways more than just appearing as a witness?

Chairman GIBBONS. In countervailing and antidumping and sections 201 and 301 and all those things.

Ms. BROWN. Yes; we have been concerned about this. CWT does testify, not at the injury hearings, but when remedies are being discussed. And we communicate with the President about ITC determinations. However, the ITC does not have to consider views of the consumer. So we have suggested that the ITC should research the impact on the consumer of each petition and make it public knowledge. In that way it will become part of the debate from the very start.

Mr. FRENZEL. That would be un-American to let the folks who have to pay the bill have anything to say about it, wouldn't it?

Ms. BROWN. Yes, after all.

Chairman GIBBONS. Well, this concludes our hearing. The hearing record will remain open until the close of business on Friday, July 27, so if any of you have any parting shots to fire at us, you better get them in in a hurry. Thank you very much.

[Whereupon, at 1:45 p.m., the hearing was adjourned.]

[Submissions for the record follow:]

DEPARTMENT OF AGRICULTURE,
Washington, DC, August 6, 1984.

Hon. SAM M. GIBBONS,
Chairman, Subcommittee on Trade, Committee on Ways and Means, House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: This is in response to your request during the Subcommittee hearing of July 24, 1984 for any additional comments by interested parties on the substitute proposal to H.R. 3795, the "Wine Equity and Export Expansion Act of 1984".

The Department of Agriculture supports the position of the Administration as presented by Ambassador Brock, United States Trade Representative, and Alan Holmer, Deputy Assistant Secretary for Import Administration, U.S. Department of Commerce in opposition to the substitute proposal. We wish to submit supplementary comments on behalf of the Administration on Section 7 of the substitute proposal dealing with wine export programs that specifically affect the operation of export promotion programs administered by this Department.

With regard to Section 7, we support the efforts of the wine industry to expand wine export markets. The Department's Foreign Agricultural Service (FAS) has for several years sponsored promotion programs for wine exports under the Cooperator Program. These programs have not only consisted of wine tastings in export markets, but have included partial reimbursements to firms for retail promotion expenditures under the export incentive program. Although these programs have been of some assistance to wine exports, the wine industry has indicated the need for more comprehensive, industry-supported efforts.

We are troubled, however, by the language in Section 7 mandating funding levels for a wine program. Under the FAS Cooperator Program, funding levels for promotional activities are established by FSA in consultation with cooperators, within the confines of the overall budget and taking into account certain criteria. These criteria include an assessment of potential export gains from the promotion as well as the ability of the industry to provide matching funds and to effectively staff and carry out the activities.

These criteria have been tested by time and have proven their effectiveness in the establishment of appropriate funding levels to the satisfaction of cooperators participating in the program. We are strongly opposed, therefore, to the provisions in Section 7 which would effectively circumvent these criteria and thereby change the structure of the cooperator program.

Sincerely,

JOHN R. BLOCK, *Secretary.*

STATEMENT OF NATHAN G. STACKHOUSE, JR., PRESIDENT, THE ASSOCIATION OF AMERICAN VINTNERS

Mr. Chairman and Members of the Subcommittee, my name is Nathan G. Stackhouse, Jr. I am the Winemaster of the Bernard D'Arcy Wine Cellars in Absecon, New Jersey, and the President of the Association of American Vintners (AAV), a nonprofit association representing 110 wineries located in 27 states. I appeared at these hearings on November 15, 1983 in support of H.R. 3795. Our Association continues to support the need for legislation that will give our trade negotiators the tools needed to increase access to foreign markets. The proposed amendments to H.R. 3795 will remove the negative aspects of the previous bill but will still provide adequate authority for the President to deal with the tariff and nontariff barriers of our trading partners that are restricting U.S. exports.

After ten years of steady growth, U.S. wine exports have declined for the second straight year. The 1983 decrease was 16.4% following the 14% decrease in 1982. Exports to Canada, our leading foreign market, were off almost 19%. At the same time imports of foreign wine increased 7.3% in 1983 and 6.4% in 1982. The trend continues to show increasing U.S. market share for imported wines, now almost 28% for table wine, while markets for our wines abroad are decreasing. Special attention to stop this trend is needed.

The wine industry is not talking about attention to stop imports. Our Association participated in the administrative action under the anti-dumping and countervailing duty laws. That action is continuing and we expect it to run its full course. The assistance we seek in this legislation is the reduction or removal of those barriers that are limiting our ability to export. In the interest of time I will not rehash those barriers again but would refer you to my November 15, 1983, testimony which sets out a number of specific examples.

Barriers do exist. While the Japanese government and the European economic Community have taken steps to reduce those barriers, Japan still has a \$3.50 per gallon tariff compared to 37.5¢ in the United States and the EEC only reduced the countervailing duty under the reference price system to zero—it did not remove the system. Thus, the increased duty can be reinstated at any time. Canada continues to use listing and mark-up practices to effectively exclude U.S. bottled wines. In spite of these barriers, U.S. producers are still working to increase exports. Shipments to Japan increased by 49% in 1983 over 1982. Can you imagine what the increase in exports will be if the tariff is reduced to a reasonable level? So this legislation is

necessary to help ensure that those countries and others continue to take steps necessary to permit equal access for our wine.

The wine industry clearly does not want to create problems for other U.S. export interests. Historically the wine industry has been ignored in trade matters and feels that the time has come for the government to pay attention to its problems. Certainly there is no desire to violate international agreements that may trigger retaliation by our trading partners. For this reason the industry has spent considerable time and resources in developing the compromise amendments that are being offered here today. We feel these new provisions are reasonable and since they are based on existing law, are legal and GATT compatible.

Continued consultations and investigation of barriers are needed. H.R. 3795 as amended will direct that they take place on a selective basis for those markets most promising to the industry. This is an equitable solution to our problems. I know that given equal access to markets, our modern and efficient wine producers will be able to sell their quality products. We urge your support for this legislation.

Thank you. I am available to answer any questions that you may have.

STATEMENT OF THE FRENCH FEDERATION OF WINE & SPIRITS EXPORTERS, BY MAX N. BERRY AND MARSHA A. ECHOLS, COUNSEL

SUMMARY OF POSITION

The French Federation of Wine and Spirits Exporters ("Federation") opposes the passage of the Wine Equity Act of any substitute proposal.

There are various aspects of the proposed legislation which are incompatible with United States international obligations. These aspects of the proposal were forcefully and correctly addressed by Ambassador William Brock during his testimony at the July 24 hearing of the Subcommittee on Trade. However, the Federation focuses its attention on Section 8, as an example of the problems raised by the proposed legislation.

Section 8 defines a domestic industry in a manner contrary to United States international obligations. In so doing the amendment deprives the U.S. International Trade Commission ("Commission") of its ability to make an independent economic analysis and judgment of which domestic producers are affected by the imports under investigation. The result of the passage of the amendment will be additional complaints by our trading partners to the General Agreement on Tariffs and Trade ("GATT") and new charges of United States protectionism.

With regard to the other issues raised by the proposed legislation, the Federation supports the July 24, 1984 testimony of the National Association of Beverage Importers and the panel of importing companies.¹

Finally the Federation respectfully reminds the Subcommittee that the Wine Equity Act and the substitute proposal are not supported by the major domestic producers of table wine.

1. Section 8 Contravenes the International Obligations of the United States

During the Tokyo Round of multilateral trade negotiations, the United States was a major proponent of a negotiated set of rules to govern the interpretation and application of Article VI of the GATT (relating to antidumping and countervailing duties). Article VI:b(a), in relevant part, limits the levying of any antidumping or countervailing duty to those situations in which the effect of the dumping or subsidization is such as to cause or threaten material injury to or to retard materially the establishment of a "domestic industry".

As a result of United States efforts during the Tokyo Round, an agreement on Interpretation and Application of Articles VI, XVI and XXIII of the General Agreement on Tariffs and Trade ("Subsidies Codes") was negotiated. Article 6 of the Subsidies Code (relating to the determination of injury) epitomizes the intention of the signatories to emphasize the "effects" of subsidies. The determination of injury by national authorities must involve, among other things, an objective examination of the effect of the imports on prices in the domestic market for "like products" and the consequent impact of imports on "domestic producers of such products". (Cf. Article 3:1 (relating to determination of injury) and Article 4:1 (relating to definition of industry) of the Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade ("Antidumping Code")). Article 6:5 defines a national

¹ The companies represented were Joseph E. Seagram & Sons, Inc., Schieffelin & Co., Brown-Forman Corporation, Heublein Inc. and Hiram Walker & Sons, Inc.

"domestic industry" as the "domestic producers as a whole of the like products or [to] those of them whose collective output of the products constitutes a major proportion of the total domestic production of those products. . . ."

Clearly the crucial concept and the initial issue in defining the domestic industry is that of the "like product". Footnote 2 to Article 6:1 of the Subsidies Codes defines the term "like product" to mean: "a product which is *identical*, i.e. alike in all respects to the product under consideration *or in the absence of such a product*, another product which, although not alike in all respects, has characteristics closely resembling those of the product under consideration." (Emphasis added.)

In summary, the international rules require that the national authorities measure the effect of the allegedly subsidized or less-than-fair value imports on the market for the product which is identical to the imports under investigation and on domestic producers of that product. Only in the absence of such an identical product can consideration be given to another product. However, that alternative product must at least have characteristics closely resembling those of the imports. No exception applies to raw or processed agricultural products. In this way the international obligations of the United States define and limit the range of competition in the marketplace which can be analyzed. Outside those perimeters, it has been agreed the effect or impact of imports is to be cognizable under the countervailing and antidumping laws.

The proposed section 8 of the substitute legislation on wine contravenes the carefully structured and economically sound international requirement described above. In the case of a Title VII investigation of imports of a processed agricultural product, the proposal includes in the domestic industry not only the United States producers of the identical processed product—as permitted by the international rules—but also the producers of the raw agricultural product. The latter group produces a product which is neither identical to the imports nor closely resembling the characteristics of the imports. The fact that the raw product is the "principal" raw product in the processed end product is completely irrelevant.

What is worse, the inclusion in the industry of these producers depends merely on their assertion that they are injured. This "requirement" lacks all substance. It is obviously intended to cover the situation faced by the grape growers during the recent Title VII wine investigation: by being automatically included in the domestic industry producing a good which includes their raw product, the "tail can wag the dog". It would be unimportant that the producers of the identical, i.e. processed, product do not claim import related injury, as was the circumstance in the wine investigation. Not one of the major domestic producers of table wine testified before the Commission in favor of an affirmative finding or has testified in support of the Wine Equity Act. The Commission, faced with the failure of Gallo (the largest domestic producer of Ordinary table wine) to even answer the questionnaire for its investigations, issued a subpoena to obtain information for its analysis of the economic condition of the domestic industry. Even then Gallo submitted a partially completed questionnaire. Yet the proposed section 8 allows such opposition by producers of the identical product to be ignored by producers of a raw or component product.

The definition of "processed agricultural product", contained in section 8(a)(2) of the substitute proposal, is a variation of GATT's Note Ad Article XVI, Section B, paragraph 2, which defines a "Primary product". Article XVI, Section B contains the GATT rules specifically applicable to the use of subsidies on the export of primary products. It is interpreted in Article 10 of the Subsidies Code. The same definition (with the exception of the reference to minerals) is contained in footnote 4 to Article 10. The definition in section 8(a)(2) is a variation of the GATT language and appears, but is not, innocuous. It glosses over major issues which have been raised—and often unanswered—in the GATT.

The proposed definition is overly broad and encompasses non-agricultural products. For example, wooden furniture is a product of a tree which has undergone processing beyond that customarily required to prepare the tree for marketing in its form as logs or lumber. The definition also raises questions similar to those which have perplexed the GATT, e.g. are wheat flour, tomato paste and pasta primary or nonprimary products?

2. The U.S. International Trade Commission Should Have the Discretion to Determine Independently the Domestic Industry in All Title VII Investigations

The U.S. Congress implemented the Tokyo Round agreements, including the Subsidies and Antidumping Codes, in the Trade Agreements Act of 1979. The relevant provisions of that law amend Title VII of the Tariff Act of 1930.

As is customary, in the 1979 Act the Commission was given the role of determining whether the effect of allegedly subsidized or less-than-fair value imports on an industry in the United States amounts to the requisite harm (See e.g. 19 U.S.C. 1671(a) relating to the imposition of countervailing duties and 19 U.S.C. 1677(7)(C)(iii) relating to the impact of imports on the "affected industry").

It is therefore the Commission, not the Department of Commerce, which defines the relevant domestic industry for the purpose of assessing the effects of the imports under investigation. It has been customary for the Commission to begin its opinions in all Title VII investigations with language which recognizes its role in implementing the statutory (and thus the international) scheme. As was stated in the opinion in the recent wine investigation: "The term 'industry' is defined in section 771(4)(A) of the 1979 Act as consisting of 'the domestic producers as a whole of a like product or those producers whose collective output of the like product constitutes a major proportion of the total domestic production of that product.' The term 'like product', in turn, is defined in section 771(10) as being 'a product which is like, or in the absence of like, most similar in characteristics and uses with the article subject to an investigation'." *Certain Table Wine from France and Italy*, Invs. Nos. 701-TA-210 and 211 (Preliminary), USITC Pub. 1502 at pp. 3-4 (March 1984 (footnote omitted) ("Certain Wine")).

The Commission then determines the appropriate like product as the starting point of its investigation and of its definition of the appropriate domestic industry.

Since Lamb Meat from New Zealand, Inv. No. 701-TA-80, USITC Pub. 1191 (November 1981), the Commission has recognized the special issues involved in defining the like product and the domestic industry in investigations concerning imports of processed agricultural products. In that investigation of imports of frozen lamb meat the Commission included the feeders, processors, growers and packers of fresh lamb in the domestic industry after a careful and realistic assessment of the totality of circumstances. In that investigation the Commission recognized "[T]he true value of our analysis is a function of how well we integrate realities in the marketplace with the requirements of the statute, this case seems to compel us to view the industry as more than an aggregate of those entities producing cuts and carcasses. We must also take note of the structure of the system by which lamb meat is produced domestically. At p. 7"

This realistic, well-defined and flexible approach, which is in keeping with the role to be played by a non-political and independent agency, has been followed in subsequent investigations of imported processed agricultural products. Section 8 would deprive the Commission of this necessary and judiciously exercised flexibility.

Recently in *Certain Wine* the Commission explained its method of analysis as follows: "In agricultural investigations, the Commission has exercised discretion in the use of this authority [defining the domestic industry]. Commission precedent for processed agricultural products has followed two lines of cases—one including only processors, and the other including the grower as well as the processor. The Commission has defined the industry to include only processors when the agricultural product can be sold in more than one market. When the agricultural product enters a single, continuous line of production resulting in one end product, the Commission has focused on the highly integrated nature of the relationship between growers and producers, and found the industry to include both growers and processors. In addition, the Commission has stressed the commonality of economic interest between the growers and processors, either in the form of interlocking ownership or economic integration in the sense of shared revenues." At p. 8. (footnotes omitted).

This flexibility allows the producers of raw agricultural products to be included in the domestic industry in all appropriate situations. The Commission has steered a wise, but narrow, course between the 1979 law, United States international obligations and the desire to protect domestic producers from the competitive impact of unfairly traded imports.

3. *The Passage of the Substitute Legislation Will Result in Complaints From Trading Partners*

There have been no complaints from trading partners about the Commission's definitions of the domestic industry in cases involving imports of processed agricultural products. Nor have there been complaints from domestic producers of raw agricultural products, until *Certain Wine*. The rulings and analyses of the Commission were considered legal, rational and fair. Sometimes producers of raw agricultural products were included in the industry with the producers of the processed product. Sometimes they were not.

In contrast there has been strong international reaction to the proposed Wine Equity Act as a whole and to its section 8. It can be expected that the passage of the

law will add another source of unnecessary friction and another GATT complaint to those that already create problems between the United States and its trading partners.

4. Conclusion

For the reasons explained above, the French Federation of Wine and Spirits Exporters opposes the Wine Equity Act and any substitute legislation. The Federation sincerely appreciates the Subcommittee on Trade's consideration of its views.

STATEMENT OF THE NATIONAL COUNCIL OF FARMER COOPERATIVES

The National Council is pleased to have this opportunity to express our support for the proposed substitute to H.R. 3795. The proposed substitute would require consultations with other nations, an investigation (under Section 301 of the Trade Act of 1974) of nontariff barriers in other countries, and action under that section if satisfactory results are not achieved by January 1, 1986 in an effort to reduce trade barriers to U.S. wine. The substitute would encourage the use of between \$2 and \$10 million for wine export promotion and provide growers standing before the International Trade Commission in certain trade disputes.

H.R. 3795, as introduced by Mr. Coelho and 345 members of the House, would equalize trade access for wine between the United States and foreign countries. Today we are expressing support for the proposed compromise in an effort to achieve prompt and needed action.

We commend the cosponsors of this legislation for initiating this effort, and we commend the interested organizations for arriving at this compromise.

UNFAIR FOREIGN TRADE

The U.S. wine industry, including grape and raisin growers, finds itself confronted by a number of restrictive and prohibitive trade barriers imposed by key foreign customers. The U.S. industry is competing for world markets with foreign wine producers who receive substantial subsidies.

For example, the March 9, 1984 report of the U.S. Department of Agriculture, "Government Assistance to Wine Production and Marketing in Italy", found that the Italian wine industry received a variety of benefits from regional governments and the European Community. These include assistance for distillation of byproducts and surpluses, storage aids, and export subsidies (see Table 1). The EC price support system alone provided \$285.2 million in subsidies in calendar year 1983 to the Italian wine industry.

The March 1984 report was a follow-up to the September 1983 Wine Subsidy Task Force report of the U.S. Department of Agriculture. That report stated: "The European Community's wine industry benefits from a broad array of subsidies. These subsidies, which are unavailable to the U.S. industry, have greatly stimulated the production of table wine, insulated wine producers against recurrent surpluses and led to lower prices for EC table wines."

The report noted that these substantial production incentives "have ultimately enhanced the EC's ability to achieve an expanding share of the U.S. market".

Meanwhile, U.S. duties on imported table wines are among the lowest in the world. Even in terms of the strong dollar, duties in the EC, for example, remain higher than those of the United States. The "playing field" is not level, and the result is that foreign competitors have gained an unfair market share.

At the same time, these nations which subsidize exports put up a variety of barriers to imports of U.S. wine. Both tariff and non-tariff barriers have been used to restrict U.S. shipments of wine to key foreign markets. In addition to government import duties, for example, non-tariff trade barriers include certification requests, license and quota systems, and government monopolies in various countries.

UNFAIR TRADE HARMS GROWERS

In summary, the economic setting facing the wine industry is as follows: (1) subsidized foreign production, (2) low U.S. import duties, and (3) high trade barriers to U.S. wine overseas.

The net result? Imports of wine into the U.S. tripled during the last decade. Close to one-third of the growth in the U.S. market over the past ten years has been filled by imported wines. Italy, the largest supplier, increased shipments by over six-fold during the decade.

As a result, U.S. grower returns for the wine grapes, adjusted for inflation, have declined in five of the past six seasons. In addition to low prices, fewer Thompson seedless grapes are being purchased by wineries, meaning that larger volumes of such grapes are being forced onto an already oversupplied raisin market.

While foreign restrictions limited U.S. exports, the import share of the U.S. wine market increased from 14 percent in 1974 to 25 percent in 1983, as a result of unfair competition. The Wine Equity Act was introduced to balance the trade access between nations so that the United States will have a fair opportunity to compete.

MARKET DEVELOPMENT

The proposed substitute to H.R. 3795 would authorize and encourage the President to use from \$2 million to \$10 million for export promotion of U.S. wine. The funds would come from the monies already authorized by Section 135 of the Omnibus Budget Reconciliation Act of 1982, so this would not require new spending.

The U.S. Department of Agriculture's "cooperator" programs, with joint public and private funding, have successfully developed markets for U.S. products overseas. The expansion of real world demand for products can provide beneficial economic support for growers and the nation through the mechanism of the marketplace. Cooperator programs have worked well for other commodities and should be used to develop markets for U.S. wine.

The National Council believes that the United States must respond to unfair foreign trading practices on behalf of American farmers, in a way that benefits our agricultural sector as a whole. We are seeking expanded exports. However, U.S. producers should not be forced to bear the cost of foreign subsidies of their products.

The proposed substitute for H.R. 3795 is an effort to deal with the problems of the wine industry in a way that emphasizes negotiations through existing procedures for resolving trade disputes rather than unilateral actions. Other nations should recognize that this is a compromise. Since this legislation implements existing procedures, there would be no factual justification for a foreign country to retaliate against a U.S. product because of this legislation.

PRODUCER STANDING

One particularly important provision of the proposed substitute will provide an opportunity for agricultural producers to have a full and fair hearing before the International Trade Commission when the ITC considers trade disputes.

Under current law, farmers have at times been excluded by the International Trade Commission from seeking legal remedy to problems caused by damaging imports. Of course, current law provides for anti-dumping and countervailing duty measures to counter unfair foreign trading practices. Such measures may be used if the ITC finds that imports have caused injury to domestic industry.

However, the ITC has defined "industry" very narrowly. For example, in several trade disputes involving processed agricultural products, the ITC has considered the damage done by imports to the processor, but not the producer of the raw commodity.

A change in the definition of "industry" is needed so that agricultural producers will have standing to challenge unfair foreign trading practices involving processed agricultural products. Such a change would not dictate the outcome of an ITC investigation, but it would ensure that concerns of agricultural producers would be fully heard.

The ITC currently has discretion to consider the impact of imports on agricultural producers, and they have chosen to do so on occasion. Therefore, this authority must be compatible with the General Agreement on Tariffs and Trade. The statute should be amended to make clear the intent of Congress that this right exists for producers.

Under the proposed substitute, the ITC would be required to consider the producer as part of the industry if the producer contends that imports have caused injury.

It is only fair that farmers should be allowed access to the trade remedies now available to industry. We strongly emphasize the need for producer standing in trade disputes, and we support the proposed substitute for H.R. 3795, the "Wine Equity and Export Expansion Act of 1984".

TABLE 1.—ITALY: GOVERNMENT ASSISTANCE PROGRAMS AVAILABLE TO THE WINE SECTOR, 1982/83 SEASON

[Data in U.S. dollars ¹]

Type of program	Expenditures		Extent of program
	Total ² (millions)	Cents per bottle ³	
EC price support system:			
Storage aids ⁴	\$60.3	0.69	Wine sector, table wines. ⁵
Byproduct distillation	18.2	.21	Do.
Distillation of surplus wine ⁶	174.1	2.00	Do.
Use of musts ⁷	19.1	.22	Do.
Export subsidies, specified countries	13.5	.16	Do.
	285.2		
EC guidance programs:			
Grants for processing facilities		⁸ .12	Total ag sector, cooperatives.
Vineyard abandonment			Wine sector.
Vineyard improvement ⁹			Quality (DOC) wine sector.
Concessional credit:			
To farmers		¹⁰ .21	Total ag sector, individual farmers.
To cooperatives		⁸ .23	Total ag sector, cooperatives.
Total		3.84	
Total, excluding distillation of surplus wine and export subsidies		¹¹ 1.68	

¹ Average 1982/83 (October–September) exchange rate of 1,472 lire per dollar was used.² Expenditures in Calendar Year 1983, supplied by the Italian Ministry of Agriculture.³ For EC price support programs total expenditures were divided by the production of common table wine which was estimated to be 90 percent of total wine production.⁴ Includes aid for transporting wine to storage facilities off winery premises.⁵ The CAP also provides storage aids for grains and sugar.⁶ Also includes distillation of wine produced from table grape varieties.⁷ Also includes aids for grape juice production, research, and natural disasters.⁸ Calculation based upon the balance sheet and other information supplied by a large cooperative in Emilia-Romagna. The concessional credit given to cooperatives in Emilia-Romagna could be somewhat less than in other regions because interest subsidies for advance payments are not available in Emilia-Romagna. However, Emilia-Romagna accounts for 70 percent of Italian wine exports to the U.S.⁹ This could be considered a subsidy for high quality (DOC) wines, but does not affect the lower quality, lower price wines which account for most U.S. imports of Italian wines.¹⁰ Based on the assumption that wine grape growers receive subsidized credit at the same rate as the total farm sector.¹¹ Or 3.4 percent of average January–October 1983 export value of semisparkling wine to the U.S. (50 cents), or 2.4 percent of export value of all wine to the United States (70 cents).

Sources: Total expenditures are from page 32 of reference 5. Cents per bottle calculations are contained in Reference 6.

STATEMENT OF DAVID J. STEINBERG, PRESIDENT, U.S. COUNCIL FOR AN OPEN WORLD ECONOMY

(The U.S. Council for an Open World Economy is a private, nonprofit organization engaged in research and public education on the merits and problems of developing an open international economic system in the overall national interest. The Council does not act on behalf of any "special interest".)

Those in the U.S. wine industry who have proposed the bill under consideration have changed the bottle, but the trade-policy concoction they are offering the Congress and the nation in the substitute version of the Wine Equity Act (H.R. 3795) is essentially the same vintage protectionism as the contents of the original container.

The original proposal, which would have increased U.S. import restrictions on wine to levels of parity with those of major foreign markets, sought to conceal the protectionist ramifications of their product with the aromatic scent of "reciprocity". But the proposal projected, not the progressive reciprocity essential to freer, more equitable world trade, but the regressive strain engendering trade recession, trade warfare and a state of affairs hardly conducive to equity and progress for the U.S. wine industry and the rest of the country.

The substitute version inter alia would require the President to (a) seek negotiation of lower foreign tariffs on wine, (b) determine if foreign nontariff barriers on wine and other grape products are unjustifiable, discriminatory and a burden on U.S. commerce, and (c) impose special restrictions on U.S. imports of wine if negotiations to reduce such foreign tariff and nontariff barriers are not successful by January 1, 1986. We should of course seek lower foreign tariffs on wine, but this effort

should be made (and can be made most effectively) in the context of comprehensive trade negotiations (which, in our Council's view, should seek formation of a free trade area involving the United States and as many other advanced countries as possible). We should of course determine if foreign barriers on wine are unjustifiable, etc., but any finding that such barriers are objectionable (according to the standards cited in Section 301 of the Trade Act of 1974), and failure to get them removed, should not ipso facto trigger retaliatory import restraints. Import curbs should be avoided in the absence of (a) a properly reached government finding that imports have caused or threaten serious injury to the U.S. industry, (b) a coherent, comprehensive strategy addressing the real problems and needs of the wine industry, and (c) a coherent, comprehensive strategy to secure and sustain an open international economic system at least insofar as the economically advanced countries are concerned. (More detailed views on these segments of a well-designed strategy are outlined in our Council's presentations to other hearings before your Committee.)

If the U.S. wine industry wants true reciprocity and a fair and open world trading system, it should advocate a definitive free-trade strategy of the kind our Council—and, it seems, our Council alone—has proposed in Congressional hearings and other forums.

(We reserve judgment on the other provisions of the bill under consideration.)

